

this contract. Paragraphs (b) through (o) of this clause provide specific guidance and limitations on particular items of cost.

(b) *U.S. Travel and Transportation.* The contractor shall be reimbursed for actual transportation costs and travel allowances in the United States as authorized in the Contract Schedule or approved in advance by the Contracting Officer or the Mission Director. Transportation costs and travel allowances shall not be reimbursed in any amount greater than the cost of, and time required for, economy-class commercially scheduled air travel by the most expeditious route except as otherwise provided in paragraph (g) of this provision unless economy air travel is not available and the contractor certifies to this in his/her voucher or other documents submitted for reimbursement.

(c) *International Travel.* For travel to and from post of assignment, the contractor shall be reimbursed for travel costs and travel allowances from place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of the travel from the contractor's residence in the United States) to the post of duty in the Cooperating Country and return to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel from the post of duty in the Cooperating Country to the contractor's residence) upon completion of services by the individual. Reimbursement for travel will be in accordance with AID's established policies and procedures for its direct-hire employees and the provisions of this contract, and will be limited to the cost of travel by the most direct and expeditious route. If the contract is for longer than one year and the contractor does not complete one full year at post of duty (except for reasons beyond his/her control), the costs of going to and from the post of duty for the contractor and his/her dependents are not reimbursable hereunder. If the contractor serves more than one year but less than the required service in the Cooperating Country (except for reasons beyond his/her control) the costs of going to the post of duty are reimbursable hereunder but the costs of going from post of duty to the contractor's permanent, legal place of residence at the time he or she was employed for work under this contract, or other location as approved by the Contracting Officer, are not reimbursable under this contract for the contractor and his/her dependents. When travel is by economy class accommodations, the contractor will be reimbursed for the cost of transporting up to 10 kilograms/22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers shall not

be in excess of the rates authorized in the Standardized Regulations (Government Civilians, Foreign Areas)—hereinafter referred to as the Standardized Regulations—as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover en route for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the Federal Travel Regulations as from time to time amended.

(d) *Local Travel.* Reimbursement for local travel in connection with duties directly referable to the contract shall not be in excess of the rates established by the Mission Director for the travel costs of travelers in the Cooperating Country. In the absence of such established rates the contractor shall be reimbursed for actual travel costs in the Cooperating Government or the Mission, including travel allowances at rates not in excess of those prescribed by the Standardized Regulations.

(e) *Indirect Travel for Personal Convenience.* When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of allowable air fare via the direct usually traveled route. If such costs include fares for air or ocean travel by foreign flag carriers, approval for indirect travel by such foreign flag carriers must be obtained from the Contracting Officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by the United States-flag carriers will be reimbursable within the above limitation of allowable costs.

(f) *Limitation on Travel by Dependents.* Travel costs and allowances will be allowed for authorized dependents of the contractor and such costs shall be reimbursed for travel from place of abode to assigned station in the Cooperating Country and return, only if the dependent remains in the Cooperating Country for at least 9 months or one-half of the required tour of duty of the contractor, whichever is greater, except as otherwise authorized hereunder for education, medical or emergency visitation travel. If the dependent is eligible for educational travel pursuant to the "Differential and Allowances" clause of this contract, time spent away from post resulting from educational travel will be counted as time at post.

(g) *Delays En Route.* The contractor may be granted reasonable delays en route while in travel status when such delays are caused by events beyond the control of the contractor and are not due to circuitous routing. It is

understood that if delay is caused by physical incapacitation, he/she shall be eligible for such sick leave as provided under the "Leave and Holidays" clause of this contract.

(h) *Travel by Privately Owned Automobile (POV).* If travel by POV is authorized in the contract schedule or approved by the Contracting Officer, the contractor shall be reimbursed for the cost of travel performed in his/her POV at a rate not to exceed that authorized in the Federal Travel Regulations plus authorized per diem for the employee and for each of the authorized dependents traveling in the POV, if the POV is being driven to or from the Cooperating Country as authorized under the contract, provided that the total cost of the mileage and the per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travelers by surface common carrier or authorized air fare, whichever is less.

(i) *Emergency and Irregular Travel and Transportation.* Emergency transportation costs and travel allowances while enroute, as provided in this section, will be reimbursed not to exceed amounts authorized by the Foreign Service Travel Regulations for AID-direct hire employees in like circumstances under the following conditions:

(1) The costs of going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location for contractor employees and dependents and returning to the post of duty, subject to the prior written approval of the Mission Director that such travel is necessary for one of the following reasons.

(i) Need for medical care beyond that available within the area to which the employee is assigned, or serious effect on physical or mental health if residence is continued at assigned post of duty. The Mission Director may authorize a medical attendant to accompany the employee at contract expense if, based on medical opinion, such an attendant is necessary.

(ii) Death, or serious illness or injury of a member of the immediate family of the employee or the immediate family of the employee's spouse.

(2) When, for any reason, the Mission Director determines it is necessary to evacuate the contractor or contractor dependents, the contractor will be reimbursed for travel and transportation expenses and travel allowance while en route, for the cost of the individuals going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other approved location. The return of such employees and dependents may also be authorized by the Mission Director when,

in his/her discretion, he/she determines it is prudent to do so.

(3) The Mission Director may also authorize emergency or irregular travel and transportation in other situations, when in his/her opinion, the circumstances warrant such action. The authorization shall include the kind of leave to be used and appropriate restrictions as to time away from post, transportation of personal and household effects, etc.

(j) *Home Leave Travel.* To the extent that home leave has been authorized as provided in the "Leave and Holidays" clause of this contract, the cost of travel for home leave is reimbursable for travel costs and travel allowances of travelers from the post of duty in the Cooperating Country to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel to the contractor's residence in the United States) and return to the post of duty in the Cooperating Country. Reimbursement for travel will be in accordance with the Uniform State/AID/USIA Foreign Service Travel Regulations, as from time to time amended, and will be limited to the cost of travel by the most direct and expeditious route. Travel allowances for travelers shall be accordance with the rates authorized in the Standardized Regulations as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover en route for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the Standardized Regulations.

(k) *Rest and Recuperation Travel.* If approved in writing by the Mission Director, the contractor and his/her dependents shall be allowed rest and recuperation travel on the same basis as authorized AID direct-hire Mission employees and their dependents.

(l) *Transportation of Motor Vehicles, Personal Effects and Household Goods.*

(1) Transportation costs will be paid on the same basis as for AID direct-hire employees serving the same length tour of duty, as authorized in the schedule. Transportation, including packing and crating costs, will be paid for shipping from the point of origin in the United States (or other location as approved by the Contracting Officer) to post of duty in the Cooperating Country and return to point of origin in the United States (or other location as approved by the Contracting Officer) of one privately-owned vehicle for the contractor, personal effects of the contractor and authorized dependents, and

household goods of the contractor not to exceed the limitations in effect for such shipments for AID direct-hire employees in accordance with the Foreign Service Travel Regulations in effect at the time shipment is made. These limitations may be obtained from the Contracting Officer.

(2) The cost of transporting motor vehicles and household goods shall not exceed the cost of packing, crating, and transportation by surface common carrier. In the event that the carrier does not require boxing or crating of motor vehicles for shipment to the Cooperating Country, the cost of boxing or crating is not reimbursable. The transportation of a privately owned motor vehicle for a contractor may be authorized as a replacement of the last such motor vehicle shipped under this contract for such contractor when the Mission Director determines, in advance, and so notifies the contractor in writing, that the replacement is necessary for reasons not due to the negligence or malfeasance of the contractor. The determination shall be made under the same rules and regulations that apply to authorized Mission U.S. citizen direct-hire employees.

(m) *Unaccompanied Baggage.* Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival of the contractor and dependents, consideration should be given to advance shipments of unaccompanied baggage. The contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance for household effects) not to exceed the limitations in effect for AID direct-hire employees in accordance with the Foreign Service Travel Regulations as in effect when shipment is made. These limitations are available from the Contracting Officer. This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used. This provision is applicable to home leave travel when authorized by the terms of this contract.

(n) *International Ocean Transportation—(i) Transportation of things.* Where U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may obtain a release from the requirement to use U.S. flag vessels from the Transportation Division, Office of Procurement, Agency for International Development, Washington, DC 20523-1419, or the Mission Director, as appropriate, giving the basis for the request.

(ii) *Transportation of persons.* Where U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may obtain a release from the requirement to use U.S. flag vessels from the Contracting Officer or the Mission Director, as appropriate.

(2) *Transportation of foreign-made vehicles.* Reimbursement of the costs of transporting a foreign-made motor vehicle will be made in accordance with the provisions of the Foreign Service Travel Regulations.

(3) Reduced rates on U.S.-flag carriers are in effect for shipments of household goods and personal effects of AID contractors between certain locations. These reduced rates are available provided the shipper furnishes to the carrier at the time of the issuance of the Bill of Lading documentary evidence that the shipment is for the account of AID. The Contracting Officer will, on request, furnish to the contractor current information concerning the availability of a reduced rate with respect to any proposed shipment. The contractor will not be reimbursed for shipments of household goods or personal effects in amounts in excess of the reduced rates which are available in accordance with the foregoing.

(o) *Storage of household effects.* The cost of storage charges (including packing, crating, and drayage costs) in the U.S. of household goods of the contractor will be permitted in lieu of transportation of all or any part of such goods to the Cooperating Country under paragraph (l) of this clause provided that the total amount of effects shipped to the Cooperating Country or stored in the U.S. shall not exceed the amount authorized for AID direct-hire employees under the Uniform Foreign Service Travel Regulations. These amounts are available from the Contracting Officer.

#### 11. Payment (June 1990)

(a) Once each month (or at more frequent intervals, if approved by the paying office indicated on the Cover Page), the contractor may submit to such office form SF 1034 "Public Voucher for Purchases and Services Other Than Personal" (original) and SF 1034-A (three copies), each voucher identified by the AID contract number properly executed in the amount of dollars claimed during the period covered. The voucher forms shall be supported by:

(i) The contractor's detailed invoice, in original and two copies, indicating for each amount claimed the paragraph of the contract under which payment is to be made, supported when applicable as follows:

(ii) For compensation—a statement showing period covered, days worked, and days when contractor was in authorized travel, leave, or stopover status for which compensation is claimed. All claims for compensation will be accompanied by, or will incorporate, a certification signed by the Project Officer covering days or hours worked, or authorized travel or leave time for which compensation is claimed.

(ii) For travel and transportation—a statement of itinerary with attached carrier's receipt and/or passenger's coupons, as appropriate.

(iii) For reimbursable expenses—an itemized statement supported by original receipts.

(2) The first voucher submitted shall account for, and liquidate the unexpended balance of, any funds advanced to the contractor.

(b) A final voucher shall be submitted by the contractor promptly following completion of the duties under this contract but in no event later than 120 days (or such longer period as the Contracting Officer may in his/her discretion approve in writing) from the date of such completion. The contractor's claim, which includes his/her final settlement of compensation, shall not be paid until after the performance of the duties required under the terms of this contract has been approved by AID. On receipt and approval of the voucher designated by the contractor as the "final voucher" submitted on form SF 1034 (original) and SF 1034-A (three copies), together with a refund check for the balance remaining on hand of any funds which may have been advanced to the contractor, the Government shall pay any amounts due and owing the contractor.

(c) Interest on Overdue Payments

(1) The Prompt Payment Act, Public Law 97-177 (96 Stat. 85.31; U.S.C. 1801) is applicable to payments under this contract and requires the payment to the contractor of interest on overdue payments and improperly taken discounts.

(2) Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125 except as provided in paragraph (c)(3) of this claim or as otherwise specifically provided under this contract.

(3) Notwithstanding the provisions of OMB Circular A-125, Section 4.1, the Government will use its best efforts to make payments under this contract as soon as practicable following receipt of a proper invoice.

12. Conversion of U.S. Dollars to Local Currency (Dec 1985)

Upon arrival in the Cooperating Country, and from time to time as appropriate, the contractor shall consult with the Mission Director or his/her authorized representative who shall provide, in writing, the policy the contractor shall follow in the conversion of U.S. dollars to local currency.

This may include, but not be limited to the conversion of said currency through the cognizant U.S. Disbursing Officer, or Mission Controller, as appropriate.

13. Post of Assignment Privileges (July 1993)

Privileges such as the use of APO, PX's commissaries and officer's clubs are established at posts abroad under agreements between the U.S. and host governments. These facilities are intended for and usually limited to members of the official U.S. establishment including the Embassy, AID Mission, U.S. Information Service and the Military. Normally, the agreements do not permit these facilities to be made available to non-official Americans. However, in those cases where facilities are open to non-official Americans, they may be used.

14. Security Requirements (June 1990)

(a) This entire provision shall apply to the extent that this contract involves access to classified information ("Confidential", "Secret", or "Top Secret") or access to administratively controlled information ("Limited Official Use"). Contractors that are not U.S. citizens shall not have access to classified or administratively controlled information.

(b) The contractor (1) shall be responsible for safeguarding all classified or administratively controlled information in accordance with appropriate instructions furnished by the AID Office of Security (IG/SEC), as referenced in paragraph (d) of this provision and shall not supply, disclose, or otherwise permit access to classified information or administratively controlled information to any unauthorized person; (2) shall not make or permit to be made any reproductions of classified information or administratively controlled information except with the prior written authorization of the Contracting Officer or Mission Director; (3) shall submit to the Contracting Officer, at such times as the Contracting Officer may direct, an accounting of all reproductions of classified or administratively controlled information; and (4) shall not incorporate in any other project any matter which will disclose classified and/or administratively controlled information except with the prior written authorization of the Contracting Officer.

(c) The contractor shall follow the procedures for classifying, marking, handling, transmitting, disseminating, storing, and destroying official material in accordance with the regulations in the Foreign Affairs Manual, Chapter 5 (5 FAM 900), a copy of which will be furnished by the Contracting Officer or Mission Director.

(d) The contractor agrees to submit immediately to the Mission Director or Contracting Officer a complete detailed report, appropriately classified, of any information which the contractor may have concerning existing or threatened espionage, sabotage, or subversive activity.

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(e) The Government agrees that, when necessary, it shall indicate by security classification or administratively controlled designation, the degree of importance to the national defense of information to be furnished by the contractor to the Government or by the Government to the contractor, and the Government shall give written notice of such security classification or administratively controlled designation to the contractor and of any subsequent changes thereof. The contractor is authorized to rely on any letter or other written instrument signed by the Contracting Officer changing a security classification or administratively controlled designation of information.

(f) The contractor agrees to certify after completion of his/her assignment under this contract that he/she has surrendered or disposed of all classified and/or administratively controlled information in his/her custody in accordance with applicable security instructions.

### 15. Contractor-Mission Relationships (Dec 1985)

(a) The Contractor acknowledges that this contract is an important part of the U.S. Foreign Assistance Program and agrees that his/her duties will be carried out in such a manner as to be fully commensurate with the responsibilities which this entails.

(b) While in the Cooperating Country, the contractor is expected to show respect for the conventions, customs, and institutions of the Cooperating Country and not interfere in its political affairs.

(c) If the contractor's conduct is not in accordance with paragraph (b) of this provision, the contract may be terminated under General Provision 16 of this contract. The Contractor recognizes the right of the U.S. Ambassador to direct his/her immediate removal from any country when, in the discretion of the Ambassador, the interests of the United States so require.

(d) The Mission Director is the chief representative of AID in the Cooperating Country. In this capacity, he/she is responsible for the total AID Program in the Cooperating Country including certain administrative responsibilities set forth in this contract and for advising AID regarding the performance of the work under the contract and its effect on the U.S. Foreign Assistance Program. The contractor will be responsible for performing his/her duties in accordance with the statement of duties called for by the contract. However, he/she shall be under the general policy guidance of the Mission Director, and shall keep the Mission Director or his/her designated representative currently informed of the progress of the work under this contract.

### 16. Termination (Nov 1989)

(This is an approved deviation to be used in place of the clause specified in FAR 52.249-12)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part:

(1) For cause, which may be effected immediately after establishing the facts warranting the termination, by giving written notice and a statement of reasons to the contractor in the event (i) the Contractor commits a breach or violation of any obligations herein contained, (ii) a fraud was committed in obtaining this contract, or (iii) the contractor is guilty (as determined by AID) of misconduct in the Cooperating Country. Upon such a termination, the contractor's right to compensation shall cease when the period specified in such notice expires or the last day on which the contractor performs services hereunder, whichever is earlier. No costs of any kind incurred by the contractor after the date such notice is delivered shall be reimbursed hereunder except the cost of return transportation (no including travel allowances), if approved by the Contracting Officer. If any costs relating to the period subsequent to such date have been paid by AID, the contractor shall promptly refund to AID any such prepayment as directed by the Contracting Officer.

(2) For the convenience of AID, by giving not less than 15 calendar days advance written notice to the contractor. Upon such a termination, contractor's right to compensation shall cease when the period specified in such notice expires except that the contractor shall be entitled to return transportation costs and travel allowances and transportation of unaccompanied baggage costs at the rates specified in the contract and subject to the limitations which apply to authorized travel status.

(3) For the convenience of AID, when the contractor is unable to complete performance of his/her services under the contract by reason of sickness or physical or emotional incapacity based upon a certification of such circumstances by a duly qualified doctor of medicine approved by the Mission. The contract shall be deemed terminated upon delivery to the Contractor of a termination notice. Upon such a termination, the contractor shall not be entitled to compensation except to the extent of any unused vacation or sick leave but shall be entitled to return transportation, travel allowances, and unaccompanied baggage costs at rates specified in the contract and subject to the limitations which apply to authorized travel status.

(b) The contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer.

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### 17. Release of Information (Dec 1985)

All rights in data and reports shall become the property of the U.S. Government. All information gathered under this contract by the contractor and all reports and recommendations hereunder shall be treated as confidential by the Contractor and shall not, without the prior written approval of the Contracting Officer, be made available to any person, party, or government, other than AID, except as otherwise expressly provided in this contract.

### 18. Notices (Dec 1985)

Any notice, given by any of the parties hereunder, shall be sufficient only if in writing and delivered in person or sent by telegraph, telegram, registered, or regular mail as follows:

To AID: Administrator, Agency for International Development, Washington, DC 20523, Attention: Contracting Officer.

(name of the cognizant Contracting Officer with a copy to the appropriate Mission Director)

To Contractor:

As his/her post of duty while in the Cooperating Country and at the Contractor's address shown on the Cover Page of this contract or to such other address as either of such parties shall designate by notice given as herein required. Notices hereunder shall be effective in accordance with this clause or on the effective date of the notice, whichever is later.

### 19. Reports (June 1987)

(a) The Contractor shall prepare and submit 2 copies of each technical report required by the schedule of this contract to the Bureau for Program and Policy Coordination, Center for Development Information and Evaluation, Development Information Division (PPC/CDIE/DI). All documents should be mailed to:

PPC/CDIE/DI, Acquisitions, room 209, SA-18, Agency for International Development, Washington, DC 20523-1802.

The title page of all reports forwarded to PPC/CDIE/DI pursuant to this paragraph shall include a descriptive title, the author's name(s), contract number, project number and title, contractor's name, name of the AID project office, and the publication or issuance date of the report.

(b) When preparing reports, the contractor shall refrain from using elaborate art work, multicolor printing and expensive paper/binding, unless it is specifically authorized in the Contract Schedule. Wherever possible, pages should be printed on both sides using single spaced type.

### 20. Use of Pouch Facilities (July 1993)

(a) Use of a diplomatic pouch is controlled by the Department of State. The Department of State has authorized the use of pouch facilities for AID contractors and their employees as a general policy, as detailed in paragraph (a)(1) through (a)(6) of this provision. However, the final decision regarding use of pouch facilities rests with the Embassy or AID Mission. In consideration of the use of pouch facilities are hereinafter stated, the Contractor agrees to indemnify and hold harmless the Department of State and AID for loss or damage occurring in pouch transmission.

(1) Contractors are authorized use of the pouch for transmission and receipt of up to a maximum of 0.90 kilogram/2 pounds per shipment of correspondence and documents needed in the administration of foreign assistance programs.

(2) U.S. citizen contractors are authorized use of the pouch for personal mail up to a maximum of 0.45 kilogram/one pound per shipment (but see paragraph (a)(3) of this clause). Non-U.S. citizen Contractors are not permitted use of the pouch for personal mail except to the extent that such use may be authorized by the Chief of Mission.

(3) Merchandise, parcels, magazines, or newspapers are not considered to be personal mail for purposes of this clause, and are not authorized to be sent or received by pouch.

(4) Official and personal mail under paragraphs (a) (1) and (2) of this provision, sent by pouch, should be addressed as follows:

Individual's Name (C), Agency for International Development, Washington, DC 20523-0001.

(5) Mail sent via the diplomatic pouch may not be in violation of U.S. Postal laws and may not contain material ineligible for pouch transmission.

(6) AID contractors hired in the United States are authorized use of military postal facilities (APO/FPO). Posts having access to APO/FPO facilities and using such for diplomatic pouch dispatch, may, however, accept official and personal mail for the pouch provided, of course, adequate postage is affixed when onward transmission (mail to other than AID/W) through U.S. postal channels is required.

(b) The contractor shall be responsible for compliance with these guidelines and limitations on use of pouch facilities.

(c) Specific additional guidance on use of pouch facilities in accordance with this clause is available from the Post Communication Center at the Embassy or AID Mission.

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### 21. Biographical Data (June 1990)

(a) The contractor agrees to furnish biographical information to the Contracting Officer, on forms (SF 171 and 171As) provided for that purpose.

(b) Emergency locator information. The contractor agrees to provide the following information to the Mission Administrative Officer on arrival in the host country regarding himself/herself and dependents:

(1) Contractor's full name, home address, and telephone number including any after-hours emergency number(s).

(2) The name and number of the contract, and whether the individual is the contractor or the contractor's dependent.

(3) The name, address, and home and office telephone number(s) of each individual's next of kin.

(4) Any special instructions pertaining to emergency situations such as power of attorney designees or alternate contact persons.

### 22. Resident Hire Personal Services Contractor (June 1990)

A contractor meeting the definition of a Resident Hire PSC contained in Section 11, General Provisions, Clause 1, Definitions, shall not be eligible for any fringe benefits (except contributions for FICA, health insurance and life insurance), allowances, or differentials, including but not limited to travel and transportation, medical, orientation, home leave, etc., unless such individual can demonstrate to the satisfaction of the Contracting Officer that he/she has received similar benefits/allowances from their immediately previous employer in the Cooperating Country, or the Mission Director determines that payment of such benefits would be consistent with the Mission's policy and practice and would be in the best interests of the U.S. Government.

### 23. Orientation and Language Training (Long Tour) (July 1993)

(a) Except as set forth in paragraph (b)(4) of this clause, the Contractor shall receive a maximum of 2 weeks AID orientation before travel overseas. The dates of orientation shall be selected by the Contractor and approved by the Contracting Officer from the orientation schedule provided by AID.

(b) As either set forth in the Contract Schedule, or provided in writing by the Contracting Officer, the following may be authorized taking into consideration specific job requirements, contractor's prior overseas experience, or unusual circumstances, in connection with orientation of individual Contractors:

- (1) Modified orientation,
- (2) Language training,
- (3) Orientation for Contractor's dependents at contract expense,

(4) Waiver of orientation for individual contractor.

(c) Transportation costs and travel allowances not to exceed one round trip from the Contractor's residence to place of orientation and return will be reimbursed, pursuant to Clause 10 of the General Provisions, entitled "Travel and Transportation Expenses," if the orientation is more than 80 kilometers/50 miles from the contractor's residence. Allowable salary costs during the period of orientation are also reimbursable.

### 24. Conditions for Contracting Prior to Receipt of Security Clearance (July 1993)

(a) Resident Hire U.S. PSC. The contractor may commence work prior to the completion of the security clearance. However, until such time as clearance is received, the contractor shall have no access to classified or administratively controlled materials. Further, failure to obtain clearance will constitute cause for contract termination in accordance with paragraph (a)(2) of General Provision 16 of this contract.

(b) U.S. PSC—Non-Resident Hire. The contractor may elect to commence travel to post immediately to begin work prior to completion of the security clearance. However, until such time as security clearance is received, the contractor shall:

(1) Have no access to classified or administratively controlled materials;

(2) Be authorized to travel to post himself/herself only; and

(3) Be authorized no entitlements other than those normally authorized for short term (less than a year) employees at post. Even if the contract is for one year or more, dependents may not accompany contractor unless at his/her expense, and transportation/storage of household/personal effects and motor vehicle will not be financed by AID prior to the receipt of the security clearance. Upon receipt of clearance, the Contracting Officer will authorize reimbursement of any such costs borne at contractor's expense prior to clearance provided they are reasonable, allocable and allowable. If appropriate given the length of time remaining, the Contracting Officer will authorize dependent travel and shipment/storage of motor vehicle and effects. Allowances which would not be provided to short term employees will be authorized after clearance is received provided that the contractor is otherwise entitled to such benefits. Failure to obtain the security clearance will constitute cause for contract termination in accordance with paragraph (a)(2) of General Provision 16 of this contract.

### 25. Medical Evacuation (Medevac) Services (July 1993)

(a) The contractor agrees to obtain medevac service coverage for himself/herself

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and his/her authorized dependents while performing personal services abroad. Coverage shall be obtained pursuant to the terms of the contract between AID and AID's medevac service provider unless exempted in accordance with paragraph (b).

(b) The following are exempted from the requirements in paragraph (a):

(i) Contractors and their dependents with a health insurance program that includes sufficient medevac coverage as approved by the Contractor Officer.

(ii) Contractors and their dependents located at Missions where the Mission Director makes a written determination to waive the requirement for such coverage based on findings that the quality of local medical services or other circumstances obviate the need for such coverage.

(c) Information on the current medevac service provider, including application procedures, is available from the Contracting Officer.

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#### FAR Clauses

The following FAR Clauses are always to be used along with the General Provisions. They are required in full text.

1. Officials Not To Benefit 52.203-1
2. Covenant Against Contingent Fees 52.203-5
3. Disputes 52.233-1 (Alternate 1)
4. Preference for U.S.-Flag Air Carriers 52.247-63

The following FAR Clauses are to be used along with the General Provisions, and when appropriate, be incorporated in each personal services contract by reference:

1. Inspection 52.246-5.
2. Examination of Records by Comptroller General 52.215-1.
3. Audit—Negotiation 52.215-2.
4. Privacy Act Notification 52.224-1.
5. Privacy Act 52.224-2.
6. Taxes—Foreign Cost Reimbursement Contracts 52.229-8.
7. Interest 52.232-17.
8. Assignment of Claims 52.232-23.
9. Protection of Government Buildings, Equipment, and Vegetation 52.237-2.
10. Notice of Intent to Disallow Costs 52.242-1.
11. Limitation of Cost 52.232-20.
12. Limitation of Funds 52.232-22.
13. Limitation of Liability—Services 52.246-25.
14. Anti-Kickback Procedures 52.203-7.
15. Certification and Disclosure Regarding Payments To Influence Certain Federal Transactions 52.203-12.

[58 FR 58596, Nov. 2, 1993]

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### APPENDIX E [RESERVED]

### APPENDIX F—USE OF COLLABORATIVE ASSISTANCE METHOD FOR TITLE XII ACTIVITIES

#### *1. Introduction*

This appendix provides a detailed description of the collaborative assistance method of contracting. This is a specialized contracting system which may be used for contracting with educational institutions eligible under, and for activities authorized under, Title XII of the Foreign Assistance Act of 1961, as amended, under the circumstances described in AIDAR 715.613-71.

#### *2. Purpose*

The collaborative assistance system is designed to:

- (a) Increase the joint implementation authority and responsibility of the contractor and the LDC;
- (b) Encourage more effective collaboration between all participating parties (AID, host country, and contractor) at important stages, including the design stage of a technical assistance project.

#### *3. Policy*

The collaborative assistance approach represents an alternative method for long-term technical assistance which involves professional collaboration with eligible Title XII institutions and LDC counterparts for a problem-solving type activity to develop new institutional forms and capabilities, to devise operating systems and policies, and to conduct joint research and development—including training. In such an activity, the difficulty in defining, in advance, precise and objectively verifiable contractor inputs and long-term project content as a basis for payment usually requires a flexible approach to project design, contracting, and project implementation. Such flexibility is also essential to the collaborative style which is responsive to LDC desires in problem areas of great complexity and varying uncertainty. Other types of technical assistance, which are usually shorter in term are amenable to more precise definition in advance, or involve closely defined and relatively standardized services, or are otherwise more analogous to commodity resource transfers, may be suitable for other contracting methods, e.g., certain forms of institution building, on-the-job training, resource surveys, etc. The collaborative assistance method is an approved method for providing technical assistance when used in accordance with the circumstances outlined above, and with the guidelines set forth in paragraph 4, below.



#### 4. Implementation Procedures

(a) *Introduction.* This paragraph 4, provides background information, guidelines and procedures to effect the implementation of the policy set forth in paragraph 3 of this appendix.

(b) *Conditions and practices.* In order for this policy to work effectively even when the proposed activity fits the criteria described under Policy, there must also be:

(1) Acceptance of the notion that the host country, in consultation with the contractor, is in the best position to make tactical, day-to-day decisions on project inputs within agreed-upon limitations and output expectations;

(2) Sufficient trust and respect between the Agency and the contractor to allow this flexible implementation authority;

(3) A direct-hire project monitor with appropriate background to be knowledgeable of progress and to assist in an advisory and facilitative capacity, both during and between periodic reviews. In addition, the following important conditions must be met:

(i) Adequate preproject communication between, and identification of assistance required by, the host government and USAID;

(ii) Full joint planning and improved project design ("Joint" as used herein refers to the primary parties, i.e., the collaborating institutions, as well as the host government and USAID. In some instances, it can also include other donors.);

(iii) Careful contractor selection, i.e., matching of the contractor's technical and managerial capabilities to the anticipated requirements of the overseas activity;

(iv) Establishment of relationships between host country, AID and contractor staff to include host country leadership, flexible implementation authority, and effective management by the contractor;

(v) Improved joint project evaluation, feedback, and replanning; and

(vi) Simplified administrative procedures and greater reliance on in-country logistical support.

(c) *Project Stages and Contractor Involvement.* In the long-term technical assistance projects as described above, there are four discrete but sometimes overlapping decision stages which take place—with the principal contractor usually involved in the last three.

(1) *Problem analysis and project identification.* After the host government has indicated a desire for U.S. collaboration on a particular problem and the AID field mission has determined that the proposed activity is consistent with its program goals and priorities, considerable effort is usually necessary to refine further the project purpose and type of assistance required and provide a basis for contractor selection. This is a crucial step and is focused on results sought—on what the prospective contractor is expected

to produce in relation to resources to be used and to project purpose. It should result in a clear understanding of what the LDC wants, and an overall plan which includes agreement on specific objectives or outputs, acceptable types of activities and inputs and an initial budget—resulting in project documentation. At this step, AID makes decisions it cannot delegate on what it will support and at what cost. If needed to supplement its direct-hire expertise, AID can use outside consultants for analysis and advice but retains the ultimate decision for itself in collaboration with, but independent of, the requesting host government. (Normally, the proposed contractor for project definition and subsequent implementation should not have been involved in the problem analysis and project identification stage as a consultant to either the host country government, host institution, or USAID. If a potential contractor has been so involved, particular care must be taken to prevent actual or apparent organizational conflicts of interest in the procurement that follows. This could require at a minimum, a careful assessment and complete documentation of reasons for selection.)

Normally, there will need to be some mutual interaction between the overall planning stage outlined here and the detailed planning and design work which follows in the next phase. There will usually be some overlap, with preliminary decisions in this stage providing a basis for selection of implementing agents for stage (2) which in turn proceeds through some preliminary planning to guide completion of stage (1) as a basis for long-term contracting.

(2) *Project definition.* At this stage, having selected the implementing agent, the U.S. and LDC organizations which will be collaborating in carrying out the project are encouraged to work out, to their mutual satisfaction, the particulars of what to do and how to do it (i.e., detailed project design) within the context of LDC leadership and responsibility and the general agreements and budget reached in stage (1). The emphasis here is on the technical approach to be utilized and the scheduling and management of project inputs. This may involve a short-term reconnaissance and/or an extensive period of detailed joint planning and feeling out of what is feasible during a preliminary operating phase of the project, possibly lasting as much as a year or more. This stage recognizes the importance, for the problem-solving or ground breaking types of technical assistance, of involving the U.S. and LDC implementing organizations together as soon as the detailed design work begins. AID's role here is to facilitate, not direct, the joint planning, assure consistency with prior agreements or concur in changes, affirm that the implementing parties have agreed on a reasonable project design, and

prepare or cause to be prepared the documentation required for stage (3), including any amendments that might be required to the project documentation. If and when a decision is made by the host government and AID to proceed into the operating phase with the same contractor, the U.S. intermediary should be treated as a cooperating partner in the negotiation of the subsequent long-term operating agreement(s) with the host government, host institution and AID.

(3) *Implementation.* The results of the approach outlined in the stage above should include, in addition to a better understanding and more meaningful commitment by all parties, the following specific products:

(i) A jointly developed life-of-project design which reflects the commitment of all parties and includes clear statements of purpose, principal outputs, eligible types of activity and expenditure limits, critical assumptions, and major progress indicators;

(ii) A workplan and input schedule for the first two years or at least as long as the expenditure period for the next obligation of project funds;

(iii) Provisions for any administrative support, special services or other inputs by the host country, contractor, and/or AID; and

(iv) A plan for periodic joint evaluation and review or progress and subsequent workplans, normally annually, with the participation of all parties.

Appropriate elements of these agreements and understandings are now embodied in a contract for project implementation, as described in paragraph (d)(3)(i) of the section on Contracting Implications. This contract allows the U.S. intermediary to apply its judgment, reflecting close collaboration with its LDC colleagues, in adjusting the flow of AID-financed inputs and in making other operational decisions with a minimum of requirements for prior AID approvals or contract amendments as long as the contractor stays within the bounds of the approved overall plan and budget. In this phase, AID will give technical assistance contractors the authority and responsibility for using their specialized expertise to the fullest extent in the scheduling and managing of project inputs.

(4) *Monitoring, joint evaluation and replanning.* With increased flexibility and responsibility for implementation placed with the technical assistance contractor, the host government, and/or institutional collaborator, improved and timely progress reporting and periodic, joint, and structured reviews of results and evolving plans are imperative as a basis for monitoring and evaluating contractor performance, revalidating or adjusting project design, and for determining future funding levels and commitments.

Both the contractor's annual report and the joint review should be structured within

the framework of purpose, outputs, performance indicators, etc., originally established in the project identification phase—as modified by detailed project design—and reflected in the Project Agreement and other pertinent documentation. The field review will normally serve as the occasion for discussing changes in or additions to previously agreed-to workplans as well as proposing changes in purpose, types of activities authorized and budgets which require contract amendment. Obviously, the appropriate host government, host institution, and senior contractor officials should be thoroughly involved in the process, which will have to be adapted to the conditions within specific projects and countries. An important USAID responsibility is to assure that there is appropriate host country participation in developing and improving project plans prior to new obligations of funds. The special requirements and responsibilities of the various parties shall also be reflected in the project agreement and contract terms and in guidelines on the content of annual reports, evaluation procedures, etc.

Standard checking on services actually delivered as a basis for reimbursement will be continued including appropriate audit of expenditures.

(d) *Contracting implications.* The principal elements of change in present contracting practices, as detailed below, are earlier selection and involvement of the prime contractor, contracting by major stages of project design and operations, minimizing the need for precontract negotiations and contract amendments and AID approvals, and providing technical assistance contractors with the authority and responsibility needed to manage implementation within the approved program bounds.

(1) *Selection.* The early involvement of the contractor in the definition stage of a long-term technical assistance project, after AID decides what it wants to undertake in stage (1), does not alter the Agency's responsibility to select its contractors carefully and in full compliance with appropriate contracting regulations and selection procedures. What is required here is that contractor selection be carried out at an earlier stage than has sometimes been the Agency practice in the past or with other types of contracts and in anticipation that the contractor, assuming adequate performance, will participate in all subsequent phases until final completion.

(2) *Contracting stages.* In contracting, the initial design stage should be separated from the longer term implementation stage without any AID commitment to undertake the second until it has exercised its independent judgment based on the product of the first plus any outside expert appraisal it and the host country want to use.

The long-term implementation stage itself may be further subdivided into contract periods which permit time between predetermined events for analysis, determination of new project requirements, and evaluation of performance prior to initiating the next phase by contract amendment/extension. If, for any reason, such an examination does not appear to warrant project continuation, then termination of the project and/or contract would be the next step.

(3) *Flexible implementation authority.* While good project design will eliminate or diminish many operational problems, the very nature of long-term technical assistance requires flexible implementation within agreed purposes, ultimate outputs, types of activity and available financing. With these key variables for AID management control established, contracts should be written so as to minimize the need for amendments and AID approval of changes in input particulars. This can be facilitated, both for the USAID, host country, institution, and the contractor by:

(i) *Retention of operational plan in contract and removal of workplan.* The contract narrative will contain the life-of-the-project Operational Plan, consistent with the project design as developed in stage (2) and reflected in the project documentation (and subsequent amendments thereto). The Operational Plan includes a statement of the purpose to be achieved, the outputs to be produced by the contractor and the types of activities to be undertaken, the more significant indicators of progress, a general description of the type of inputs that are authorized and intended to be provided during the life of the project, and the overall budget.

In order to allow adjustments at the implementation level without going through the contract amendment process, the detailed but short-term workplan containing specific descriptions and scheduling of all inputs such as numbers and types of staff, participants, commodities, etc., and specific activities, will not be a part of the contract. It is a working document to be modified in the field when the situation demands. The latest version will be available as a supporting document to justify proposed new obligation levels. Normally, the workplan and derived budget will cover a rolling two year period, i.e., each year another yearly increment is added after review and approval.

(ii) *Budget flexibility.* To support this implementation flexibility, contract budget or fiscal controls will be shifted from fixed line items for each input category to program categories, permitting the technical assistance contractor to adjust amounts and timing to achieve previously approved types of activity. This same type of flexibility should apply to any local currency supplied for project operations and/or contractor staff

support. While an essential corollary to eliminating the workplan from the contract, this is not a unique procedure under cost reimbursement type contracts when the contractor has demonstrated adequate management capability.

(iii) *Negotiation of advance understandings.* To permit university and international research center contractors to manage their activities in accordance with their own policies and procedures and thereby sharpen their management responsibility while achieving substantial savings in time and reduced documentation, AID may negotiate advance understandings with its technical assistance contractors on dollar costs and administrative procedures that would be included by reference in its subsequent contracts. Upon receipt of a request from the contractor that their policies be reviewed and approved for usage in their contract in lieu of the standard terms and conditions, OP/PS/OCC, AID/W will initiate negotiations of such policies in an expeditious manner. The approved policies will be used in all relevant relations involving the Agency and respective contractors in lieu of traditional contract standard provisions, whenever this may be appropriate. This does not apply to local currency costs and host government procedures which must be negotiated in each case.

The purpose of the practices listed above is not only to give a qualified contractor the authority to adjust the composition and timing of inputs but to assign to it clear responsibility for managing such resources, as the evolving circumstances require, to achieve the agreed-upon outputs on a cost efficient basis. It should also reduce the delay and paperwork involved in frequent but minor contract amendments, and approvals. For the agency as a whole, both in the Mission and in AID/W, these have involved a large workload and cost.

(e) *Role of AID.* Nothing in this appendix is intended to delegate, diminish or otherwise modify AID's final responsibility for the prudent management of public funds and its own programs. Rather in withdrawing from the day-to-day involvement in and responsibility for the management of adjustment of the flow of inputs during the implementation, the best use of limited agency staff and time can be devoted to protecting the public interest in gaining maximum results from the funds appropriated for technical assistance by:

(1) Seeking optimum identification in terms of LDC priorities and U.S. capabilities;

(2) Mobilizing and selecting the best U.S. professional talent to design and carry out the project;

(3) Monitoring what is happening to assure adequacy of processes, get a feel of results, assure actual delivery of inputs being financed;

(4) Assuring that the attention of AID's implementation agents and LDC colleagues stay well focused on project purpose and results to be achieved (outputs) and the relation to these of what is being done and actual results;

(5) Providing intermediaries adequate authority and responsibility to adjust inputs promptly and sensitively to the evolving project situations.

Attention to these considerations, and to achievements of the preimplementation conditions prescribed above, should greatly increase the chances for successful project completion and impact on a cost effective basis, which is the final measurement of prudent management.

#### ATTACHMENT TO APPENDIX F—GUIDELINES FOR REQUESTS FOR EXPRESSIONS OF INTEREST

##### *A. Length and Level of Detail*

A Request for Expression of Interest (REI) should include more than just a short letter expressing interest, but should not be in the detail of a technical proposal (RFTP). The REI is not the only source of information that can or should be used for selection, but at least a minimum level of information should be contained in each document. A ten page paper that responds to the selection criteria included in every REI should be sufficient for evaluation purposes. The selection criteria should specify the technical inputs required for successful execution of the project and normally require a response in three general areas:

1. A description of the institution's capability to address the problem described in the REI.

2. Any related experience, whether in the country or region or in the problem area.

3. A demonstrable commitment of the institution to support the project.

The responses should address the capability, experience, and commitment to the particular project.

##### *B. Specific Personnel Information*

The response should specify within the areas set out in the selection criteria the following planning and personnel factors.

1. The design team plan and the scope of work for each member.

2. A list of candidates for the design team and their credentials.

3. A list of possible candidates for long-term assignment to the project. (Since there has been no project design, the specific technical assistance slots and technical responsibilities are vague. But it is expected that at least half of the personnel needs can be estimated early in the project. The institution should make its best guess for the team and present to the Agency the persons or types of persons with whom they are likely to contract.)

##### *C. Multiple Institution Submissions*

Joint effort on the part of several institutions is encouraged when appropriate. A single institution may submit an expression of interest for part of the project without knowledge of other collaborators or it may submit information in response to A and B of this attachment as part of a suggested collection of institutions. In either case, a proposed plan for cooperation is necessary.

However, such joint efforts must specify the division of responsibilities for the planning and personnel factors indicated in B of this attachment. Often AID will identify the need for cooperation and suggest such an effort in the REI. Even if AID does not suggest collaboration, joint efforts with a description of the cooperation would be an appropriate way to respond to an REI.

(Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435)

[49 FR 13301, Apr. 3, 1984, as amended at 49 FR 33669, Aug. 24, 1984; 50 FR 16089, Apr. 24, 1985; 51 FR 20652, June 6, 1986; 52 FR 6160, Mar. 2, 1987]

#### APPENDIX G—APPROVAL PROCEDURES FOR CONTRACTOR SALARIES

##### *1. Purpose*

This appendix provides guidelines for use when considering contractor salaries, and procedures for approval of contractor salaries exceeding the maximum salary level for Senior Executive Service level ES-6.

##### *2. Procedures*

- (a) *General.* Personnel compensation negotiated and payable under USAID contracts should be at the minimum levels necessary to attract needed technical services in a competitive market. Rates should be determined by the market place where the types of services are obtained. Using such criteria, very few salaries should approach or exceed the ES-6 level. Actual discussions with contractors concerning salaries should be held only by persons authorized to negotiate and execute contracts (see AIDAR Appendix A).

- (b) In accordance with 731.205-6, 731-371(b) and 731.772, approval of contractors salaries exceeding the maximum for Executive Service Level 6 are to be based upon a Memorandum from the technical office through the cognizant Assistant Administrator or Mission Director and the Contracting Officer to the Procurement Executive for approval. The reasonableness of proposed salaries exceeding the ES-6 level must be evaluated by the appropriate technical office in terms of the technical competence required, scope of supervisory responsibilities involved, and the relationship of the proposed salary level to the individual's customary salary level for

similar work. The Contracting Officer shall clear the Memorandum if he/she concurs with the action. If he/she does not concur, a memorandum explaining the reasons shall be attached to the approval request and forwarded with it to the Procurement Executive. Increases in the ES-6 salary levels are not, and shall not be by themselves, the basis for upward salary increases of institutional contractor employees. Proposals for revisions should be considered normally when contracts are renewed or amended, and must be fully reviewed and negotiated to ensure that increases are not automatically granted without corresponding increases in the quality or quantity of services rendered. It is the Contracting Officer's responsibility to scrutinize increases as a matter of good business practice whenever USAID negotiations deal with any salaries payable under contracts. Salaries below the ES-6 maximum level should also be fully justified, even though formal approval procedures may not be involved. The justification should be a part of the negotiation memorandum and placed in the contract file.

[60 FR 11913, Mar. 3, 1995; 60 FR 13212, Mar. 10, 1995]

## APPENDIX H—RESPONSE TO AUDIT RECOMMENDATIONS

### 1. Purpose

This appendix establishes consolidated procedures for responding to post-award audit reports. The procedures in this appendix are not applicable to pre-contract audit surveys.<sup>1</sup>

### 2. Applicability

The procedures set forth in this appendix apply to all audit recommendations concerning costs questioned under AID-direct contracts whether the recommendation is assigned to the Office of Procurement (FA/OP, hereinafter referred to as OP), or to a Mission or Area Contracting Officer.

### 3. The Role of the Inspector General

(a) *Legislative and procedural requirements.* Public Law 96-304, July 8, 1980 (Section 305)

<sup>1</sup>Contracting officers often request audit advice and assistance in evaluating contractor's proposals prior to award, FAR 15808(b) requires the contracting officer to provide a copy of the memorandum of negotiation to the auditor (the cognizant RIG) when a pre-award survey has been performed, to inform the auditor of the disposition and usefulness of the pre-award survey. Provision of a copy of the memorandum of negotiation to the cognizant RIG, pursuant to FAR 15.808(b), constitutes response to a pre-award audit survey.

requires that audits involving questioned costs be resolved within six months. Further, OMB Circular A-73, Audit of Federal Operations and Programs, requires that each agency establish policies and procedures for prompt and proper resolution of audit recommendations, and establish standards for such policies and procedures. The Administrator has approved procedures for audit follow-up and resolution, as recommended by the Inspector General (IG).

(b) *IG responsibilities.* (1) The IG and Regional Inspectors General (RIG) are responsible for tracking and following up on audit recommendations to insure prompt and proper resolutions, and for reporting on monetary recoveries resulting from audit reports. Following receipt of the contracting officer's disposition of the substance of an audit recommendation, the IG and RIG are responsible for determining whether or not to officially close the recommendations.

(2) If the cognizant RIG has not received satisfactory evidence of resolution of an audit recommendation within four months of issuance, the RIG will request a status report from the office assigned action responsibility (see also paragraph 5b(3) of this appendix). If no evidence of satisfactory resolution is received by six months, the IG follows up directly with the cognizant Assistant Administrator. The IG may request the Deputy Administrator to take action on any recommendation open for more than six months.

(3) If the cognizant RIG does not agree to an action office's disposition of an audit recommendation, the RIG will first attempt to resolve the issue with the action office. If this is unsuccessful, the issue will be referred to the IG, who will attempt resolution with the cognizant office head or Assistant Administrator. If the issue cannot be resolved at this level, it can then be referred by IG to the Deputy Administrator for decision. (See also paragraph 4.b., concerning the role of the contracting officer.)

(4) If the cognizant RIG questions a contracting officer's decision not to seek recovery of audit questioned cost, the RIG may submit the issue to the cognizant Regional Legal Advisor, or to the General Counsel's Office. (See also paragraph 4.b., concerning the role of the contracting officer.)

### 4. The Role of the Contracting Officer

(a) Pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 601-613), as implemented in FAR Part 33, and as provided in FAR 1.6 and Subpart 701.6 of the AIDAR, contracting officers have the authority to negotiate and enter into settlements with contractors of costs questioned under audit reports. With this authority goes the responsibility for insuring that such settlements are properly justified and documented, and promptly executed.

(b) A negotiated settlement of questioned costs, executed by the contractor and the contracting officer; or a contracting officer's final decision pursuant to the disputes clause (in the event questioned costs are not settled by negotiated agreement), are final, subject only to a contractor's appeal, either under the provisions of the Disputes Act, or to the Courts. Regardless of internal controls, such as IG or RIG's right to maintain a recommendation as open (see paragraph 3.b(3) of this appendix, or to question a contracting officer's decision regarding questioned costs (see paragraph 3.b(4) of this appendix), the contracting officer's decision as between the Government and the contractor is final, subject to established methods of contractor appeal. Authority to negotiate settlements, or make final decisions on questioned costs rests with duly delegated contracting officers alone.

#### 5. Procedures

In order to insure that resolutions of audit recommendations are properly justified and documented, the following procedures are established:

(a) *General.* (1) Copies of all correspondence concerning resolution of an audit recommendation must be promptly sent to the cognizant RIG. All correspondence provided to the cognizant RIG should include the contractor's name, the contract number(s), and the audit report and recommendation number(s).

(2) In transmitting post-award audit reports to action offices, the RIG's attached memoranda shall identify each contract by its number and request an initial written response within 30 days. Under the Agency's audit recommendation follow-up system, the RIG's are following up to insure that action offices provide the 30-day responses. The IG is required to provide a copy of the initial response to several Congressional Committees. It is recognized that the initial response to audit reports questioning contract costs takes the form of a notification to the contractor by the contracting officer. The cognizant RIG will accept copies of the contracting officer's notification as the initial response to the audit report if:

—The notification clearly indicates the title and/or number of the audit report.

—The notification covers all the cost issues raised in the audit report. If it does not, the cognizant RIG requires a separate memorandum explaining the contracting officer's position on the remaining cost issues.

(3) Action offices have six months from receipt of an audit recommendation to resolve that recommendation; however, every effort will be made to resolve the recommendation within 120 days of its receipt. The contracting officer is responsible for keeping the cognizant RIG informed regarding the status of open audit recommendations in accordance

with the procedures established in this appendix. If for any reason a recommendation cannot be resolved within the 120 day period, the contracting officer must so advise the cognizant RIG in writing, giving the reasons. This notification is to be provided as soon as possible, but in any event at least two weeks before expiration of the 120 day period. The contracting officer is also responsible for insuring that RIG's four-month follow-up (see paragraph 3.b(2) of this appendix is promptly answered. For details on RIG's four and six month follow-up procedures, see paragraph 3.b(2), above.

(4) Responses to audit recommendations must be in writing, properly documented to clearly explain the action taken. When the contracting officer is satisfied that action on a recommendation has been completed, and the file properly documented, he or she should specifically request that the cognizant RIG consider the audit recommendation closed (see paragraph 6 of this appendix). The cognizant RIG should be requested to notify the contracting officer promptly, in writing, if for any reason they are not prepared to officially close the recommendation, providing the reasons. Such notice should identify the contract number and refer to the contracting officer's last correspondence.

(b) *Audit recommendations questioning costs under AID direct contracts.* (These procedures are mandatory for audit recommendations assigned to OP. It is recommended that they be applied, suitably adapted, to audit recommendations assigned to Missions which have been delegated contracting authority or to an area contracting officer).

(1) *Documentation and control.* (a) All correspondence to and from the cognizant RIG shall specify the contract number, contractor's name, audit report number, and recommendation number, plus the amount of the questioned costs allowed or sustained as disallowed by the contracting officer.

(b) All incoming audits containing recommendations for action by OP are to be immediately submitted to OP/PS/SUP. OP/PS/SUP will log in the audit report, recording the recommendation numbers and established due dates for all recommendations assigned to OP. OP/PS/SUP will then transmit the audit, through the cognizant division chief, to the contracting officer with action responsibility.

(c) OP/PS/SUP will establish a tickler file of recommendations assigned to OP, and will provide internal reminders and follow-ups.

(d) The contracting officer will keep OP/PS/SUP advised on the current status of open recommendations by providing OP/PS/SUP with a copy of official audit-related correspondence between the contracting officer and the RIG. Any necessary follow up by OP/PS/SUP to update data for preparation of

reports shall be made through the cognizant division chief.

(2) *Notification, negotiation, and settlement.*

(a) Within two weeks after receipt of the audit report, the contracting officer shall formally notify the contractor by letter of the costs questioned. This notification shall require the contractor to respond to the contracting officer within 30 calendar days of receiving the letter. If warranted in the circumstances, invite the contractor to participate in negotiations to arrive at a mutually acceptable resolution of such costs. If no response has been received within 30 calendar days following the initial notification to the contractor of the questioned costs, issue a follow-up letter to the contractor requesting a response within 20 calendar days. In this follow-up the contractor should be advised that failure to respond within the specified period will result in the issuance of a final decision, pursuant to the disputes clause of the contract. If no response is received 20 calendar days after the follow-up letter, the contracting officer makes a final decision in accordance with FAR 33.011 regarding the questioned costs and issues, in writing, the appropriate contracting officer's decision as authorized in the Disputes clause of the contract. A copy of each letter, and any decision, shall be sent to the cognizant RIG (and, when the audit recommendation is assigned to OP, to OP/PS/SUP).

(b) If the contractor responds to the contracting officer's letter identifying questioned costs, but an acceptable settlement is not achieved with a reasonable period of time (normally, 3 months from the date of initial notification), the contracting officer shall consider negotiations to have reached an impasse. The contracting officer shall then issue the appropriate decision as authorized in the disputes clause of the contract. A copy of this decision must be sent to the cognizant RIG (and, when the audit recommendation is assigned to OP, to OP/PS/SUP). See also paragraph 5b(4) of this appendix regarding notification of the Controller.

(c) Normally, the contractor will respond to notification of questioned costs, and a mutually acceptable settlement can be negotiated. Such negotiated settlements must be documented for the contract file by the contracting officer. The written record must include:

(i) The initial audit findings, in detail, including all questioned costs, item by item.

(ii) The contracting officer's position, as reflected in the notification to the contractor, on each of the audit findings, and questioned costs. If there are any differences between the contracting officer's position and that of the audit, these must be explained, showing exactly what the differences are, why, and how they were arrived at (including discussions, comments, and advice or clearances by other offices).

(iii) A final summary analysis showing the audit finding; the contracting officer's initial position; the contractor's response; subsequent positions of both parties, and final resolution. This must be in sufficient detail to permit any reasonable person to understand what the issues were, how much was involved, what items were adjusted (plus how much and why), what the final resolution was, and why.

A copy of this written record, clearly marked to indicate the audit report and recommendation number(s) must be sent to the cognizant RIG (and, when the audit recommendation is assigned to OP, to OP/PS/SUP). See also paragraph 5b(4) of this appendix, regarding notification of the Controller.

(3) *Collection.* The preferred method of collection is through the issuance of a Bill for Collection, in accordance with Agency policy on cash management. Use of any other collection method must be coordinated in advance with FM/CMP. Bills for Collection are issued by the Controller in accordance with the procedures set forth in paragraph 5b(4) of this appendix.

(4) *Notification of the controller.* (a) When a settlement has been negotiated, or a final decision has been issued pursuant to the disputes clause, it remains to collect the amount determined due to AID (substantiated disallowances). The contracting officer is responsible for notifying the Controller to issue a Bill for Collection. A copy of this notification must be sent to the cognizant RIG, and to IG/PPP (and to OP/PS/SUP, for audits assigned to OP).

(b) The notification to the Controller must contain the following information:

(i) Identification of the contract/task order/work order, providing the contract number, and the contractor's name and address;

(ii) The most recent accounting and appropriation data (PIO/T number and allotment number, etc.);

(iii) The amount due to AID;

(iv) The applicable audit and recommendation number(s); and

(v) A copy of the contracting officer's negotiated settlement or final decision pursuant to the disputes clause (see paragraph 5b(2) of this appendix).

(c) The notification must request that a copy of the Bill for Collection be sent to the cognizant RIG, IG/PPP, and the contracting officer. The contracting officer is responsible for following up to insure that the Bill for Collection has been issued, and that a copy is in fact provided to the cognizant RIG and to IG/PPP, and is placed in the contract file.

(d) If the Contractor appeals the final decision pursuant to the disputes clause, the contracting officer must promptly notify the Controller to suspend collection pending resolution of the appeal. Suspension action by the Controller shall be taken in consultation

with the Office of the General Counsel, pursuant to Delegation of Authority No. 80. The contracting officer is responsible for notifying the Controller regarding resolution of any appeal.

#### 6. Closing Audit Recommendations

When the contracting officer has completed all action required by an audit recommendation in accordance with the procedures established in this appendix, he/she shall request that the recommendation be considered officially closed. The memorandum to the cognizant RIG shall specifically identify the audit report and recommendation number(s), summarize the actions taken, and explain why the recommendation(s) should be considered closed, providing sufficient evidence to permit the cognizant RIG to make a reasonable decision. For audit recommendations involving questioned costs which result in sustained disallowances, RIG and IG/PPP will accept a copy of the issued Bill for Collection as evidence to close a recommendation. A copy of the request to close a recommendation shall be sent to IG/PPP (and, for audits assigned to OP, to OP/PS/SUP).

#### 7. Clearances

(a) *General.* All proposed post-award audit responses, whether to internal audits prepared by the IG, or to GAO audits, prepared by OP are to be cleared in accordance with DAA/M requirements in effect at the time the response is prepared. Responses prepared by Mission or Area contracting officers will be cleared in accordance with applicable Mission and Bureau procedures.

(b) *Final decisions pursuant to the disputes clause.* If settlement of an audit requires a final decision by the contracting officer in accordance with FAR 33.011, pursuant to the disputes clause, such decisions must be cleared by GC or the cognizant Mission or Regional Legal Advisor.

(Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435)

[49 FR 13302, Apr. 3, 1984, as amended at 50 FR 50303, Dec. 10, 1985; 51 FR 20652, June 6, 1986; 55 FR 6805, Feb. 27, 1990; 56 FR 67226, Dec. 30, 1991; 59 FR 33447, June 29, 1994]

### APPENDIX I—AID'S ACADEMIC PUBLICATION POLICY

#### 1. Statement of Policy

This is a statement of AID policy on publication, or release to parties other than those specifically authorized, of unclassified materials gathered or developed under contracts with academic institutions.

#### 2. Underlying Principles

AID favors and encourages the publication of scholarly research as well as the maximum availability, distribution, and use of knowledge developed in its program.

This policy statement does not deal with material that is classified for security reasons. It does deal with considerations of national interest, not of sufficient gravity to warrant security classification, but serious enough to affect adversely the conduct of U.S. assistance programs. Consequently, in addition to the requirements of courtesy, propriety, and confidence which normally guide scholars in their work, there should also be consideration of the potential repercussions of publication on the successful execution of development and other cooperative programs in which the United States and foreign countries are involved.

#### 3. Operational Definitions

The Agency draws a distinction between two kinds of manuscripts which a scholar may wish to publish:

(a) A report which is prepared and delivered to the Agency under the terms of the contract (a "contract manuscript"); and

(b) An article or book based upon experience and information gained under an AID contract but not prepared or delivered under the contract (a "non-contract manuscript").

There are two kinds of actions, to be specified in the contract, which the Agency can take upon notification of a contractor's desire to publish:

(a) Comment only, under which AID and the foreign government involved may review the manuscript, and have their comments considered seriously by the contractor prior to publication; and

(b) Authorization for release, which AID may withhold if reconciliation between the national interest and the author's interest is impossible.

#### 4. Policy Statements

(a) AID, as a general rule, will not require an academic institution to obtain permission to publish the written work produced under a contract. It will ask for the opportunity to review the manuscript for comment only, prior to publication.

In the case of a contract manuscript, AID reserves the right to disclaim endorsement of the opinions expressed; if it is a noncontract manuscript, AID reserves the right to disassociate itself from sponsorship or publication.

(b) On the other hand, AID may reserve the right of authorization for release in those exceptional cases where conditions exist making it reasonably foreseeable, in light of the contract's scope of work and the manner and place of performance, that the written work



to be prepared and delivered under the contract may have adverse repercussions on the relations and programs of the United States. Where this right is reserved, it must be so specified in the contract. In determining where to reserve such right, AID will consider all relevant factors, including:

- (1) The extent to which prompt and full performance of the contract will require access, facilitated by reason of the contract, to information not generally available to scholars;
- (2) The extent to which the work involves matters of political concern to foreign countries, particularly where any substantial part of the work is to be performed therein;
- (3) The extent to which, by reason of AID's close involvement and cooperation in the performance of the contract, the work product may be so identified with AID itself as to prevent effective disclaimer of AID endorsement thereof;
- (4) The extent to which the objective of the contract is to provide advice to AID or to a foreign government of immediate operational significance in the conduct of the AID program or the implementation of governmental programs in the host country;
- (5) The desires of the host country.

#### 5. Implementation

The successful implementation of this policy on publication rests on a thorough understanding and acceptance of these principles by AID and the prospective contractor. The actual publications provision for a particular contract, then, would be so worded as to reflect the agreement reached in the contract negotiations.

AID's concern with noncontract manuscripts is related to the identification of a manuscript with the U.S. Government. This concern will be modified by the passage of time following termination of the contract.

In the normal case of prepublication review for AID comment, the institution will submit a copy of the manuscript not later than the date of submission to the publisher. This gives the Agency time to comment if it is deemed appropriate. However, in the case of review for authorization, timely notification of AID's response will be given, consistent with the size of the manuscript and the number and location of the parties involved.

The Agency will make every effort to expedite this review procedure in accordance with the underlying principle described at the beginning of this policy statement.

(Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435)

[49 FR 13304, Apr. 3, 1984]

## APPENDIX J—DIRECT AID CONTRACTS WITH COOPERATING COUNTRY NATIONALS AND WITH THIRD COUNTRY NATIONALS FOR PERSONAL SERVICES ABROAD

### 1. General

(a) *Purpose.* This appendix sets forth the authority, policy, and procedures under which AID contracts with cooperating country nationals or third country nationals for personal services abroad.

b. *Definitions.* For the purpose of this appendix:

(1) *Personal services contract (PSC)* means a contract that, by its express terms or as administered, makes the contractor personnel appear, in effect, Government employees (see FAR 37.104).

(2) *Employer-employee relationship* means an employment relationship under a service contract with an individual which occurs when, as a result of (i) the contract's terms or (ii) the manner of its administration during performance, the contractor is subject to the relatively continuous supervision and control of a Government officer or employee.

(3) *Non-personal services contract* means a contract under which the personnel rendering the services are not subject either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.

(4) *Independent contractor relationship* means a contract relationship in which the contractor is not subject to the supervision and control prevailing in relationships between the Government and its employees. Under these relationships, the Government does not normally supervise the performance of the work, or the manner in which it is to be performed, control the days of the week or hours of the day in which it is to be performed, or the location of performance.

(5) *Contractor* means a cooperating country national or a third country national who has entered into a contract pursuant to this appendix.

(6) *Cooperating country* means the country in which the employing AID Mission is located.

(7) *Cooperating country national (CCN)* means an individual who is a cooperating country citizen or a noncooperating country citizen lawfully admitted for permanent residence in the cooperating country.

(8) *Third Country National (TCN)* means an individual (i) who is neither a citizen nor a permanent legal resident alien of the United States nor of the country to which assigned for duty, and (ii) who is eligible for return to his/her home country or country of recruitment at U.S. Government expense [see Section 12, General Provision 9 paragraph (n)].

## 2. Legal Basis

(a) Section 635(b) of the Foreign Assistance Act of 1961, as amended, hereinafter referred to as the "FAA", provides the Agency's contracting authority.

(b) Section 636(a)(3) of the FAA authorizes the Agency to enter into personal services contracts with individuals for personal services abroad and provides further that such individuals " \* \* shall not be regarded as employees of the U.S. Government for the purpose of any law administered by the Civil Service Commission." <sup>1</sup>

## 3. Applicability

(a) This appendix applies to all personal services contracts with CCNs or TCNs to provide assistance abroad under Section 626(a)(3) of the FAA.

(b) This appendix does not apply to:

(1) Contracts for non-personal services with TCNs or CCNs; such contracts are covered by the basic text of the FAR and AIDAR.

(2) Personal services contracts with U.S. citizens or U.S. resident aliens for personal services abroad; such contracts are covered by appendix D of this chapter.

(3) Appointments of experts and consultants as AID direct-hire employees; such appointments are covered by AID Handbook 25, Employment and Promotion.

## 4. Policy

(a) *General.* AID may finance, with either program or operating expense (OE) funds, the cost of personal services as part of the Agency's program of foreign assistance by entering into a direct contract with a CCN or a TCN for personal services abroad.

(1) *Program funds.* Under the authority of Section 636(h) of the FAA, program funds may be obligated for periods up to five years where necessary and appropriate to the accomplishment of the tasks involved.

(2) *Operating expense funds.* Pursuant to AID budget policy, OE funded salaries and other recurrent cost items may be forward funded for a period of up to three (3) months beyond the fiscal year in which these funds were obligated. Non-recurring cost items may be forward funded for periods not to exceed twenty-four (24) months where necessary and appropriate to accomplishment of the work.

(b) *Limitations on Personal Services Contracts.* (1) Personal services contracts may only be used when adequate supervision is available.

(2) Personal services contracts may be used for commercial activities. Commercial activities provide a product or service which

could be obtained from a commercial source. See Attachment A of OMB Circular A-76 for a representative list of such activities.

(3) Personal services contracts may be used for Governmental functions (defined by OMB Circular A-76 as functions so intimately related to the public interest as to mandate performance by Government employees) *except:*

(i) Entering into any agreement (e.g., loan, grant, contract) on behalf of the United States.

(ii) Making decisions involving governmental functions such as planning, budget, programming and personnel selection. Services will be limited to making recommendations with final decision-making authority reserved for authorized AID direct-hire employees.

(iii) Supervision of AID direct-hire U.S. citizen employees.

(iv) Services which involve security classified material.

(c) *Conditions of Employment.* (1) *General.* For the purpose of any law administered by the U.S. Office of Personnel Management, AID PSC contractors are not to be regarded as employees of the U.S. Government, are not included under any retirement or pension program of the U.S. Government, and are not eligible for the Incentive Awards Program covered by Uniform State/AID/USIA regulations. Each AID Mission is expected to participate in the Joint Special Embassy Incentive Awards Program. The program is administered by a joint committee which establishes procedures for submission, review and approval of proposed awards. Other than these exceptions, CCNs and TCNs who are hired for work in a cooperating country under PSCs generally will be extended the same benefits and be subject to the same restrictions as Foreign Service Nationals (FSNs) employed as direct-hires by the AID Mission.

(2) *Compensation.* (i) It is AID's general policy (see AIDAR 722.170) that PSC compensation may not, without the approval of the Mission Director or Assistant Administrator, exceed the prevailing compensation paid to personnel performing comparable work in the cooperating country. Compensation for TCN or CCN personal services contractors set in accordance with the provisions in paragraphs 4c(2)(ii) (A) and (B) of this clause satisfies this requirement.

(ii) In accordance with section 408(a)(1) of the Foreign Service Act of 1980, a local compensation plan forms the basis for all compensation payments to FSNs which includes CCNs and TCNs. The plan is each post's official system of position classification and pay, consisting of the local salary schedule which includes salary rates, statements authorizing fringe benefit payments, and other pertinent facets of compensation for TCNs

<sup>1</sup>The Civil Service Commission is now the Federal Office of Personnel Management.

and CCNs, and the local position classification system as reflected in the Local Employee Position Classification Handbook (LEPCH) or equivalent in effect at the Mission. Compensation for PSCs will be in accordance with the local compensation plan, to the extent that it covers employees of the type or category being employed, unless the Mission Director determines otherwise. If the Mission Director determines that compensation in accordance with the local plan would be inappropriate in a particular instance, then compensation will be set in accordance with (in order of preference):

(A) Any other Mission policies on foreign national employee compensation; or

(B) Paragraphs 4 (c) (d) (e) (g) and (h) of appendix D. When compensation is set in accordance with this exception, the record shall be documented in writing with a justification prepared by the requesting office and approved by the Mission Director.

(iii) The earning of leave (annual and sick), allowances and differential (if applicable), salaries and all other related benefits cannot be enumerated in this appendix as they vary from Mission to Mission and are based upon the compensation plan for each.

(iv) Unless otherwise authorized, the currency in which compensation is paid to contractors shall be in accordance with the prevailing local compensation practice of the post.

(v) CCN and TCN contractors are eligible for allowances and differential on the same basis as direct-hire FSN employees under the post compensation plan.

(vi) An AID PSC who is a spouse of a current or retired U.S. Civil Service, U.S. Foreign Service, or U.S. military service member, and who is covered by their spouse's government health or life insurance policy, is ineligible for a contribution towards the costs of annual health and life insurance.

(vii) Retired CCNs and TCNs may be awarded personal services contracts without any reduction in or offset against their Government annuity.

(3) *Incentive Awards.* (i) All Cooperating Country Nationals direct-hire and Personal Services Contractors (PSCs) and Third Country Nationals (PSCs) of the Foreign Affairs Community are eligible for the Joint Special Embassy Incentive Awards Program.

(ii) The Joint Country Awards Committee administers each post's (Embassy) award program, including establishment of procedures for submission, review and approval of proposed awards.

(4) *Training.* CCN and TCN PSCs are eligible for most of the training courses offered in the Training Course Schedule. However, applications will be processed on a case-by-case basis and are required to be approved by the Contracting Officer.

#### 5. *Soliciting for Personal Services Contracts*

(a) *Project Officer's Responsibilities.* The Project Officer will prepare a written detailed statement of duties and a statement of minimum qualifications to cover the position being recruited for; the statement shall be included in the procurement request. The procurement request shall also include the following additional information as a minimum:

(1) The specific foreign location(s) where the work is to be performed, including any travel requirements (with an estimate of frequency);

(2) The length of the contract, with beginning and ending dates, plus any options for renewal or extension;

(3) The basic education, training, experience, and skills required for the position;

(4) A certification from the officer in the Mission responsible for the LEPCH or equivalent that the position has been reviewed and is properly classified as to a title, series and grade in accordance with the LEPCH. If the position does not fall within the LEPCH or equivalent system, an estimate of compensation based on paragraphs 4(c)(2)(ii)(A) or (B) of this appendix after consultations or in coordination with the contract officer or executive officer;

(5) A list of Government or host country furnished items (e.g., housing); and

(6) If the PSC will be providing advisory and assistance services, include the justification required by AIDAR 737.270(b).

(b) *Contracting Officer's Responsibilities.* (1) The Contracting Officer will prepare the solicitation for personal services which shall contain:

(i) Three sets of certified biographical data and salary history. (Upon receipt, one copy of the above information shall be forwarded to the Project Officer);

(ii) A detailed statement of duties or a completed position description for the position being recruited for;

(iii) A copy of the prescribed contract Cover Page, Contract Schedule, and General Provisions as well as the FAR Clauses to be included in full text as well as those to be incorporated by reference; and

(iv) A copy of General Notice entitled "Employee Review of the New Standards of Conduct" dated October 30, 1992.

(2) The Contracting Officer shall comply with the limitations of AIDAR 706.302-70(c) as detailed in paragraph 5(c) of this clause.

(c) *Competition.* (1) Under AIDAR 706.302-70(b)(1), Personal Services Contracts are exempt from the requirements for full and open competition with two limitations that must be observed by Contracting Officers.

(i) Offers are to be requested from as many potential offerors as is practicable under the circumstances, and

(ii) A justification supporting less than full and open competition must be prepared in accordance with FAR 6.303.

(2) A class justification was approved by the AID Procurement Executive to satisfy the requirements of AIDAR 706.302-70(c)(2) for a justification in accordance with FAR 6.303. Use of this class justification for Personal Services Contracts with Cooperating Country Nationals and Third Country Nationals is subject to the following conditions:

(i) New contracts are publicized consistent with Mission/Embassy practice on announcement of direct hire FSN positions. Renewals or extensions with the same individual for continuing service do not need to be publicized.

(ii) A copy of the class justification (which was distributed all AID Contracting Officers via Contract Information Bulletin) must be included in the contract file, together with a written statement, signed by the Contracting Officer, that the contract is being awarded pursuant to AIDAR 706.302-70(b)(1); that the conditions for use of this class justification have been met; and that the cost of the contract is fair and reasonable. If the conditions in paragraphs (2)(i) and (ii) are not followed, the Contracting Officer must prepare a separate justification as required under AID 706.302-70(c)(2).

(3) Since the award of a personal services contract is based on technical qualifications, not price, and since the biographical data and salary history are used to solicit for such contracts, FAR Subparts 15.4 and 15.5 are inappropriate and shall not be used. Instead, the solicitation and selection procedures outlined in this appendix shall govern.

#### 6. Negotiating a Personal Services Contract

Negotiating a Personal Services Contract is significantly different from negotiating a nonpersonal services contract because it establishes an employer-employee relationship; therefore, the selection and negotiations procedures are more akin to the personnel selection procedures.

(a) *Project Officer's Responsibilities.* The Project Officer shall be responsible for reviewing and evaluating the applications received in response to the solicitation issued by the Contracting Officer. If deemed appropriate, interviews may be conducted with the applicants before the final selection is submitted to the Contracting Officer.

(b) *Contracting Officer's Responsibilities.* (1) The Contracting Officer shall forward a copy of biographical data and salary history received under the solicitation to the Project Officer for evaluation.

(2) On receipt of the Project Officer's recommendation, the Contracting Officer shall conduct negotiations with the recommended applicant. The terms and conditions of the contract will normally be in accordance with the local compensation plan which forms the

basis for all compensation on payments paid to FSNs which includes CCNs and TCNs.

(3) The Contracting Officer shall use the certified salary history on the certified statement of biographical data and salary history as the basis for salary negotiations, along with the Project Officer's cost estimate.

(4) The Contracting Officer will obtain necessary data for a security and suitability clearance to the extent required by AID Handbook 6, Security.

#### 7. Executing a Personal Services Contract

Contracting activities, whether AID/W or Mission, may execute Personal Services Contracts, provided that the amount of the contract does not exceed the contracting authority that has been redelegated to them. See AIDAR 701.601.

In executing a personal service contract, the Contracting Officer is responsible for insuring that:

(a) The proposed contract is within his/her delegated authority;

(b) A written detailed statement of duties covering the proposed contract has been received;

(c) The proposed scope of work is contractible, contains a statement of minimum qualifications from the technical office requesting the services, and is suitable for a personal services contract in that:

(1) Performance of the proposed work requires or is best suited for an employer-employee relationship, and is thus not suited to the use of a non-personal services contract;

(2) The scope of work does not require performance of any function normally reserved for direct-hire Federal employees (under paragraph 4(b) of this appendix); and

(3) There is no apparent conflict of interest involved (if the Contracting Officer believes that a conflict of interest may exist, the question should be referred to the cognizant legal counsel);

(d) Selection of the contractor is documented and justified (AIDAR 706.302-70(b)(1) provides an exception to the requirement for full and open competition for Personal Services Contracts abroad, see paragraph 5(c) of this appendix);

(e) The standard contract format prescribed for a Cooperating Country National and a Third Country National personal services contract (Sections 9, 10 or 11, 12, and 13 of this appendix as appropriate) is used, or that any necessary deviations are processed as required by AIDAR 701.470;

(f) The contractor has submitted the names, addresses, and telephone numbers of at least two persons who may be notified in the event of an emergency (this information is to be retained in the contract file);

(g) The contract is complete and correct and all information required on the contract

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Cover Page (AID form 1420-36B) has been entered;

(h) The contract has been signed by the Contracting Officer and the contractor, and fully executed copies are properly distributed;

(i) The following clearances, approvals and forms have been obtained, properly completed, and placed in the contract file before the contract is signed by both parties:

(1) Security clearance to the extent required by AID Handbook 6, *Security*;

(2) Mission, host country, and project office clearance, as appropriate;

(3) Medical clearance(s) based on a full medical examination(s) and certification of same by a licensed physician. The physician's certification must be in the possession of the Contracting Officer prior to signature of contract. If a TCN is recruited, medical clearance requirements apply to the contractor and each dependent who is authorized to accompany the contractor;

(4) The approval for any salary in excess of FS-1, in accordance with appendix G of this chapter;

(5) A copy of the class justification or other appropriate explanation and support required by AIDAR 706.302-70, if applicable;

(6) Any deviation to the policy or procedures of this appendix, processed and approved under AIDAR 701.470;

(7) The memorandum of negotiation;

(j) The position description is classified in accordance with the LEPCH, and the proposed salary is consistent with the local compensation plan or the alternate procedures established in paragraph 4(c)(2)(ii) of this clause;

(k) Funds for the contract are properly obligated to preclude violation of the Anti-Deficiency Act, 31 U.S.C. 134 (the Contracting Officer ensures that the contract has been properly recorded by the appropriate accounting office prior to its release for the signature of the selected contractor);

(l) The contractor receives and understands AID General Notice entitled "Employee Review of the New Standards of Conduct" dated October 30, 1992 and a copy is attached to each contract, as provided for in paragraph (c) of General Provision 2, Section 12;

(m) Agency conflict of interest requirements, as set out in Chapter 2D and 2F of AID Handbook 24, are met by the contractor prior to his/her reporting for duty;

(n) A copy of a Checklist for Personal Services Contractors which may be in the form set out above or another form convenient for the contracting officer, provided that a form

containing all of the information described in this paragraph 7 shall be prepared for each PSC and placed in the contract file;

(o) In consultation with the regional legal advisor and/or the regional contracting officer, the contract is modified by deleting from the General Provisions (Sections 12 and 13 of this appendix) the inapplicable clause(s) by a listing in the Schedule; and

(p) The block entitled, "Project No." on the Cover Page of the contract format is completed by inserting the four-segment project number as prescribed in AID Handbook 18, *Information Services* if the PSC is project-funded.

### 8. Contracting Format

The prescribed Contract Cover Page, Contract Schedules, General Provisions and FAR Clauses for personal service contracts for TCNs and CCNs covered by this appendix are included as follows:

9. "Cover Page" for a contract with a Cooperating Country National or with a Third Country National.

10. "Schedule" for a contract with a Cooperating Country National or with a Third Country National.

11. "Optional Schedule for Contract with a Cooperating Country National or with a Third Country National." [Use of the Optional Schedule is intended to serve as an alternate procedure for OE funded Foreign Service National PSCs. The schedule was developed for use when the Contracting Officer anticipates incremental recurring cost funded contracts. It should be noted that the Optional Schedule eliminates the need to amend the contract each time funds are obligated. However, the Contracting Officer is required to amend each contract not less than twice during a 12 month period to ensure that the contract record of obligations is up to date and agrees with the figures in the master funding document.]

12. "General Provisions" for contract with a Cooperating Country National or with a Third Country National.

13. FAR Clauses to be incorporated in full text as well as by reference in personal services contracts.

### Appendix J, Section 9

#### Cover Page

Contract with a Cooperating Country National or a Third Country National for Personal Services.

—AID Form 1420-36B (APRIL 1992)

AGENCY FOR INTERNATIONAL DEVELOPMENT  
WASHINGTON, D. C. 20523

CONTRACT WITH A COOPERATING COUNTRY NATIONAL FOR PERSONAL SERVICES ABROAD [ ]

CONTRACT WITH A THIRD COUNTRY NATIONAL FOR PERSONAL SERVICES ABROAD [ ]

Negotiated Pursuant to the Foreign Assistance Act of 1961, as amended, and Executive order 11223	Contract Number	
Country of Performance	Amount Obligated This Action	Total Estimated Contract Cost \$
Contract For Technical Services	Project Number (if applicable)	
For	Contractor (Name, Street, City, Country, Postal Zone)	
Contracting Office (Name and Address)		
Administered By (If other than Contracting Office)	Effective Date	Estimated Completion Date
Cognizant Scientific/Technical Office (Name, Office Symbol, Address)	Accounting and Appropriation Data	
Supervising Officer	PIO/T Number (if applicable) _____	
This is a Consulting Services Contract (AIDAR 737.272)	Appropriation Number _____	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Budget Plan Code _____	
Payment Will be Made By	Type of Advance ("X" Appropriate Box) <input type="checkbox"/> INITIAL <input type="checkbox"/> NONE AUTHORIZED	

The United States of America, hereinafter called the Government, represented by the Contracting Office executing this contract, and the Contractor agree that the Contractor shall perform all the services set forth in the attached Schedule, for the consideration stated therein. The rights and obligations of the parties to this contract shall be subject to and governed by the Schedule and the General Provisions. To the extent of any inconsistency between the Schedule or the General Provisions and any specifications or other provisions which are made a part of this contract, by reference or otherwise, the Schedule and the General Provisions shall control. To the extent of any inconsistency between the Schedule and the General Provisions, the Schedule shall control.

This Contract consists of this Cover Page, the Schedule of \_\_\_\_\_ pages, including the Table of Contents.

the General Provisions Section 12 and Section 13 FAR Clauses by reference.

	UNITED STATES OF AMERICA AGENCY FOR INTERNATIONAL DEVELOPMENT
Signature of Contractor	By (Signature of Contracting Officer)
Typed or Printed Name	Typed or Printed Name
Date	Date

AID 1420-368 (4-92)

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### Section 10—Schedule

#### Cooperating Country National or Third Country National PSC

Contract No. \_\_\_\_

#### Table of Contents

The Schedule on pages \_\_\_\_ through \_\_\_\_ consists of this Table of Contents and the following Articles:

Article I Statement of Duties

Article II Period of Service

Article III Contractor's Compensation and Reimbursement

Article IV Costs Reimbursable and Logistic Support

Article V Precontract Expenses

Article VI Additional Clauses

#### General Provisions

The following provisions, numbered as shown below, omitting number(s) \_\_\_\_, are the General Provisions (GPs) of this Contract:

1. Definitions
2. Compliance with Applicable Laws and Regulations
3. Physical Fitness
4. Security
5. Workweek
6. Leave and Holidays
7. Social Security and Cooperating Country Taxes
8. Insurance
9. Travel and Transportation
10. Payment
11. Contractor-Mission Relationships
12. Termination
13. Allowances
14. Advance of Dollar Funds
15. Conversion of U.S. Dollars to Local Currency
16. Post of Assignment Privileges
17. Release of Information
18. Notices
19. Incentive Awards
20. Training
21. Medical Evacuation Services

#### Schedule

NOTE: Use of the following Schedule is not mandatory. The Schedule is intended to serve as a guideline and as a checklist for contracting offices in drafting contract schedules. Article language shall be changed to suit the needs of the particular contract. Special attention should be given to the financial planning sections where unnecessary line items should be eliminated.

#### ARTICLE I—STATEMENT OF DUTIES

[The statement of duties shall include:

A. General statement of the purpose of the contract.

B. Statement of duties to be performed.

C. Orientation or training to be provided by USAID.]

#### ARTICLE II—PERIOD OF SERVICE

Within \_\_\_\_ days after written notice from the Contracting Officer that all clearances, including the doctor's certificate required under General Provision Clause 3, have been received or unless another date is specified by the contracting officer in writing, the contractor shall proceed to \_\_\_\_ and shall promptly commence performance of the duties specified above. The contractor's period of service shall be approximately \_\_\_\_ in \_\_\_\_\_. (Specify time of duties in each location.)

#### ARTICLE III—CONTRACTOR'S COMPENSATION AND REIMBURSEMENT

A. Except as reimbursement may be specifically authorized by the Mission Director or contracting officer, AID shall pay the contractor compensation after it has accrued and make reimbursements, if any are due, in currency of the post or for necessary and reasonable costs actually incurred in the performance of this contract within the categories listed in paragraph D of this article, and subject to the conditions and limitations applicable thereto as set out herein and in the attached General Provisions (GP).

B. The amount budgeted and available as personal compensation to the contractor is calculated to cover a calendar period of approximately \_\_\_\_ (days) (weeks) (months) (years) (which is to include (1) vacation and sick leave which may be earned during contractor's tour of duty (GP Clause No. 6), (2) \_\_\_\_ days for authorized travel (GP Clause 9), and (3) \_\_\_\_ days for orientation and consultation if required by the Statement of Duties.

C. The contractor shall earn vacation leave at the rate of \_\_\_\_ days per year under the contract (provided the contract is in force for at least 90 days) and shall earn sick leave at the rate of \_\_\_\_ days per year under the contract.

#### D. Allowable Costs.

1. Compensation at the rate of LC \_\_\_\_ per (year) (month) (week) (day), equivalent to Grade FSN- \_\_\_\_/\_\_\_\_, in accordance with the Mission's Local Compensation Plan. If during the effective period of this contract the Local Compensation Plan is revised, contractor's compensation will be revised accordingly and contractor will be notified in writing by the contracting officer. Adjustments in compensation for periods when the contractor is not in compensable pay status shall be calculated as follows:

Rate of LC \_\_\_\_ per (day) (hour).

LC \_\_\_\_

2. Overtime (Unless specifically authorized in the Schedule of this contract, no overtime hours shall be allowed hereunder.)

## Ch. 7, App. J

3. Travel and Transportation (Ref. GP Clause 9). (Includes the value of TRs furnished by the Government, not payable to contractor).

- |  |         |         |
|--|---------|---------|
| a. United States .....                 | \$ ____ |         |
| b. International .....                 | \$ ____ |         |
| c. Cooperating and Third Country ..... | \$ ____ | LC ____ |
| Subtotals Item 3 .....                 | \$ ____ | LC ____ |
4. Subsistence or Per Diem (Ref. GP Clause 9).
- |  |         |         |
|--|---------|---------|
| a. United States .....                 | \$ ____ |         |
| b. International .....                 | \$ ____ |         |
| c. Cooperating and Third Country ..... | \$ ____ | LC ____ |
| Subtotals Item 4 .....                 | \$ ____ | LC ____ |
5. Other Direct Costs
- |  |  |         |
|--|--|---------|
| a. Physical Examination (Ref. GP Clause 3) ..... |  | LC ____ |
| b. Miscellaneous .....                           |  | LC ____ |
| Subtotals Item 5 .....                           |  | LC ____ |
- A Total Estimated Costs (Lines 1 thru 5) .....
- |  |         |         |
|--|---------|---------|
|  | \$ ____ | LC ____ |
|--|---------|---------|

E. Maximum U.S. Dollar and Local Currency Obligation.

In no event shall a maximum U.S. Dollar obligation under this contract exceed \$\_\_\_\_ nor shall maximum local currency obligation exceed LC \_\_\_\_\_. Contractor shall keep a close account of all obligations incurred and accrued hereunder and promptly notify the contracting officer whenever it appears that the said maximum is not sufficient to cover all compensation costs reimbursable which are anticipated under the contract.

### ARTICLE IV—COSTS REIMBURSABLE AND LOGISTIC SUPPORT

#### A. General

The contractor shall be provided with or reimbursed in local currency (\_\_\_\_) for the following:

[Complete]

#### B. Method of Payment of Local Currency Costs

Those contract costs which are specified as local currency costs in paragraph A of this article, if not furnished in kind by the cooperating government or the Mission, shall be paid to the contractor in a manner adapted to the local situation, based on vouchers submitted in accordance with GP Clause 10. The documentation for such costs shall be on such forms in such manner as the Mission Director shall prescribe.

#### C. Cooperating or U.S. Government Furnished Equipment and Facilities

[List any logistical support, equipment, and facilities to be provided by the cooperating government or the U.S. Government at no cost to this contract; e.g., office space,

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supplies, equipment, secretarial support, etc., and the conditions, if any, for use of such equipment.]

### ARTICLE V—PRECONTRACT EXPENSES

No expense incurred before signing of this contract will be reimbursed unless such expense was incurred after receipt and acceptance of a precontract expense letter issued to the contractor by the contracting officer, and then only in accordance with the provisions and limitations contained in such letter. The rights and obligations created by such letter shall be considered as merged into this contract.

### ARTICLE VI—ADDITIONAL CLAUSES

[Additional Schedule Clauses may be added to meet specific requirements of an individual contract.]

#### Section 11—Optional Schedule

Cooperating Country National or Third Country National PSC

Contract No. \_\_\_\_

Table of Contents

(Optional Schedule)

[Use of the Optional Schedule is not mandatory. It is intended to serve as an alternate procedure for OE funded Cooperating Country National and Third Country National PSCs. The schedule was developed for use when the Contracting Officer anticipates incremental recurring cost funded contracts.

It should be noted that use of the Optional Schedule eliminates the need to amend the contract each time funds are obligated. However, Contracting Officer is required to amend each contract not less than twice during a 12 month period to ensure that the contract record of obligations is up to date and agrees with the figures in the master funding document.]

The Schedule on pages \_\_\_\_ through \_\_\_\_ consists of this Table of Contents and the following Articles:

- Article I Statement of Duties
- Article II Period of Service
- Article III Contractor's Compensation and Reimbursement
- Article IV Costs Reimbursable and Logistic Support
- Article V Precontract Expenses
- Article VI Additional Clauses

### GENERAL PROVISIONS

The following provisions, numbered as shown below, omitting number(s) \_\_\_\_, are the General Provisions (GPs) of this contract.

1. Definitions
2. Compliance with Applicable Laws and Regulations



## Agency for International Development

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3. Physical Fitness
4. Security
5. Workweek
6. Leave and Holidays
7. Social Security and Cooperating Country Taxes
8. Insurance
9. Travel and Transportation
10. Payment
11. Contractor-Mission Relationships
12. Termination
13. Allowances
14. Advance of Dollar Funds
15. Conversion of U.S. Dollars to Local Currency
16. Post of Assignment Privileges
17. Release of Information
18. Notices
19. Incentive Awards
20. Training
21. Medical Evacuation Services

### ARTICLE I—STATEMENT OF DUTIES

[The statement of duties shall include:

- A. General statement of the purpose of the contract.
- B. Statement of duties to be performed.
- C. Orientation or training to be provided by USAID.]

### ARTICLE II—PERIOD OF SERVICE

Employment under this contract is of a continuing nature. Its duration is expected to be part of a series of sequential contracts; all contract provisions and clauses and regulatory requirements concerning availability of funds and the specific duration of this contract shall apply.

Within 10 days after written notice from the Contracting Officer that all clearances have been received, unless another date is specified by the Contracting Officer in writing, the contractor shall proceed to (name place) and shall promptly commence performance of the duties specified in ARTICLE I of this contract. The contractor's period of service shall be approximately (specify duration from date to date).

### ARTICLE III—CONTRACTOR'S COMPENSATION AND REIMBURSEMENT

A. Except as reimbursement may be specifically authorized by the Mission Director or Contracting Officer, AID shall pay the contractor compensation after it has accrued and make reimbursements, if any are due, in currency of the cooperating country (LC) in accordance with the prevailing practice of the post or for necessary and reasonable costs actually incurred in the performance of this contract within the categories listed in paragraph D of this article, and subject to the conditions and limitations applicable thereto as set out herein and in the attached General Provisions (GP).

B. The amount budgeted and available as personal compensation to the contractor is calculated to cover a calendar period of approximately \_\_\_\_ (days) (weeks) (months) (years) (which is to include (1) vacation and sick leave which may be earned during the contractor's tour of duty) (GP Clause No. 6), (2) \_\_\_\_ days for authorized travel (GP clause 9), and (3) \_\_\_\_ days for orientation and consultation if required by the Statement of Duties.

C. The contractor shall earn vacation leave at the rate of \_\_\_\_ days per year under the contract (provided the contract is in force for at least 90 days) and shall earn sick leave at the rate of \_\_\_\_ days per year under the contract.

D. All employee rights and benefits from the previous contract or employment, i.e., accumulated annual and sick leave balances, original service computation dates, reserve fund contributions, accumulated compensatory time, social security contributions, seniority and longevity bonuses are considered allowable costs and as a continuation as long as the break in service does not exceed three days.

#### E. Allowable Costs.

1. The following illustrative budget details allowable costs under this contract and provides estimated incremental recurrent cost funding in the total amount shown. Additional funds for the full term of this contract will be provided by the preparation of a master PSC funding document issued by the Mission Controller for the purpose of providing additional funding for a specific period. The master PSC funding document will be attached to this contract and will form a part of the executed contract while also serving to amend the budget.

2. Overtime (Unless specifically authorized in the Schedule of this contract, no overtime hours shall be allowed hereunder.)

LC \_\_\_\_

3. Travel and Transportation (Ref. CP Clause 9). (Includes the value of TRs furnished by the Government, not payable to contractor).

a. United States .....	\$ ____	
b. International .....	\$ ____	
c. Cooperating and Third Country .....	\$ ____	LC
Subtotals Item 3 .....	\$ ____	LC

4. Subsistence or Per Diem (Ref. GP Clause 9.)

a. United States .....	\$ ____	
b. International .....	\$ ____	
c. Cooperating and Third Country .....	\$ ____	LC

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Subtotals Item 3 .....	\$_____	LC
<hr/>		
5. Other Direct Costs.		
a. Physical Examination (Ref. GP Clause 3) .....	.....	LC
b. Miscellaneous .....	.....	LC
Subtotals Item 5 .....	.....	LC
Total Estimated Costs (Lines 1 thru 5) .....	\$_____	LC

F. Allowable costs compensation and all terms and benefits of employment under this contract will be in accordance with the Mission's local compensation plan. Salary changes and personnel-related contract actions will be made by processing the same forms as used in making such changes and actions for direct-hire FSN employees. When issued by the Contracting Officer, the forms utilized will be attached to the contract and will form a part of the contract terms and conditions.

Any adjustment or increase in the compensation granted to direct-hire employees under the local compensation plan will be allowed for in the PSCs subject to the availability of funds. Such an adjustment will be effected by a mass pay adjustment notice from the Contracting Officer, which will be attached to the contract and form a part of the executed contract.

At the end of each year of satisfactory service, PSC contractors will be eligible to receive an increase equal to one annual step increase as shown in the local compensation plan, pending availability of funds. Such increase will be effected by the execution of an SF-1126, payroll change slip which is to be attached to each contract and each action forms a part of the official contract file.

Under the Joint incentive awards program for FSNs, monetary awards will be made pending availability of funds. The increase for the award will be effected by the execution of an SF-1126 which will be attached to the contract and will form a part of the contract. In no event may costs under the contract exceed the total amount obligated.

The master PSC funding document may not exceed the term or estimated total cost of this contract. Notwithstanding that additional funds are obligated under this contract through the issuance and attachment of the master PSC funding document, all other contract terms and conditions remain in full effect.

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### ARTICLE IV—COSTS REIMBURSABLE AND LOGISTIC SUPPORT

#### A. General

The contractor shall be provided with or reimbursed in local currency (\_\_\_\_) for the following:

[Complete]

#### B. Method of Payment of Local Currency Costs

Those contract costs which are specified as local currency costs in Paragraph A of this article, if not furnished in kind by the cooperating government or the Mission, shall be paid to the contractor in a manner adapted to the local situation, based on vouchers submitted in accordance with GP Clause 10. The documentation for such costs shall be on such forms and in such manner as the Mission Director shall prescribe.

#### C. Cooperating or U.S. Government Furnished Equipment and Facilities

[List any logistical support, equipment, and facilities to be provided by the cooperating government or the U.S. Government at no cost to this contract; e.g., office space, supplies, equipment, secretarial support, etc., and the conditions, if any, for use of such equipment.]

### ARTICLE V—PRECONTRACT EXPENSES

No expense incurred before signing of this contract will be reimbursed unless such expense was incurred after receipt and acceptance of a precontract expense letter issued to the contractor by the contracting officer, and then only in accordance with the provisions and limitations contained in such letter. The rights and obligations created by such letter shall be considered as merged into this contract.

### ARTICLE VI—ADDITIONAL CLAUSES

[Additional Schedule Clauses may be added to meet specific requirements of an individual contract.]

#### Section 12

#### GENERAL PROVISIONS—CONTRACT WITH A COOPERATING COUNTRY NATIONAL OR THIRD COUNTRY NATIONAL FOR PERSONAL SERVICES

To be used to contract with cooperating country nationals or third country nationals for personal services.

#### Index of Clauses

1. Definitions
2. Compliance with Applicable Laws and Regulations
3. Physical Fitness
4. Security
5. Workweek
6. Leave and Holidays

## Agency for International Development

## Ch. 7, App. J

7. Social Security and Cooperating Country Taxes
8. Insurance
9. Travel and Transportation
10. Payment
11. Contractor-Mission Relationships
12. Termination
13. Allowances
14. Advance of Dollar Funds
15. Conversion of U.S. Dollars to Local Currency
16. Post of Assignment Privileges
17. Release of Information
18. Notices
19. Incentive Awards
20. Training

### 1. Definitions (July 1993) [For Use in Both Cooperating Country National (CCN) and Third Country National (TCN) Contracts]

(a) *AID* shall mean the Agency for International Development.

(b) *Administrator* shall mean the Administrator or the Deputy Administrator of the Agency for International Development.

(c) *Contracting Officer* shall mean a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(d) *Cooperating Country National* shall mean the individual engaged to serve in the Cooperating Country under this contract.

(e) *Cooperating Country* shall mean the foreign country in or for which services are to be rendered hereunder.

(f) *Cooperating Government* shall mean the government of the Cooperating Country.

(g) *Government* shall mean the United States Government.

(h) *Economy Class* air travel shall mean a class of air travel which is less than business or first class.

(i) *Local Currency* shall mean the currency of the cooperating country.

(j) *Mission* shall mean the United States AID Mission to, or principal AID office in, the Cooperating Country.

(k) *Mission Director* shall mean the principal officer in the Mission in the Cooperating Country, or his/her designated representative.

(l) *Third Country National* shall mean an individual (i) who is neither a citizen of the United States nor of the country to which assigned for duty, and (ii) who is eligible for return travel to the TCN's home country or country from which recruited at U.S. Government expenses, and (iii) who is on a limited assignment for a specific period of time.

(m) *Tour of Duty* shall mean the contractor's period of service under this contract and shall include, authorized leave and international travel.

(n) *Traveler* shall mean the contractor or dependents of the contractor who are in authorized travel status.

(o) *Dependents* shall mean spouse and children (including step and adopted children who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support).

### 2. Compliance With Laws and Regulations Applicable Aboard (July 1993) [For Use in Both CCN and TCN Contracts]

(a) *Conformity to Laws and Regulations of the Cooperating Country.* Contractor agrees that, while in the cooperating country, he/she as well as authorized dependents will abide by all applicable laws and regulations of the cooperating country and political subdivisions thereof.

(b) *Purchase or Sale of Personal Property or Automobiles.* [For TCNs Only].

To the extent permitted by the cooperating country, the purchase, sale, import, or export of personal property or automobiles in the cooperating country by the contractor shall be subject to the same limitations and prohibitions which apply to Mission U.S.-citizen direct-hire employees.

(c) *Code of Conduct.* The contractor shall, during his/her tour of duty under this contract, be considered an "employee" (or if his/her tour of duty is for less than 130 days, a "special Government employee") for the purposes of, and shall be subject to, the provisions of 18 U.S.C. 202(a) the AID General Notice entitled Employee Review of the New Standards of Conduct. The contractor acknowledges receipt of a copy of these documents by his/her acceptance of this contract.

### 3. Physical Fitness (July 1993) [For Use in Both CCN and TCN Contracts]

(a) *Cooperating Country National.* The contractor shall be examined by a licensed doctor of medicine, and shall obtain a certificate that, in the doctor's opinion, the contractor is physically qualified to engage in the type of activity for which he/she is to be employed under the contract. A copy of the certificate shall be provided to the Contracting Officer before the contractor starts work under the contract. The contractor shall be reimbursed for the cost of the physical examination based on the rates prevailing locally for such examinations in accordance with Mission practice.

(b) *Third Country National.* (i) The contractor shall obtain a physical examination for himself/herself and any authorized dependents by a licensed doctor of medicine. The contractor shall obtain a certificate from the doctor that, in the doctor's opinion, the contractor is physically qualified to engage in the type of activity for which he/she is to

be employed under the contract, and the contractor's authorized dependents are physically qualified to reside in the cooperating country. A copy of that certificate shall be provided to the Contracting Officer prior to the dependents' departure for the cooperating country.

(ii) The contractor shall be reimbursed for the cost of the physical examinations mentioned above as follows: (1) Based on those rates prevailing locally for such examinations in accordance with Mission practice or (2) if not done locally, not to exceed \$100 per examination for the contractor's dependents of 12 years of age and over and not to exceed \$40 per examination for contractor's dependents under 12 years of age. The contractor shall also be reimbursed for the cost of all immunizations normally authorized and extended to FSN employees.

*4. Security (July 1993) [For Use in Both CCN and TCN Contracts]*

(a) The contractor is obligated to notify immediately the Contracting Officer if the contractor is arrested or charged with any offense during the term of this contract.

(b) The contractor shall not normally have access to classified or administratively controlled information and shall take conscious steps to avoid receiving or learning of such information. However, based on contractor's need to know, Mission may authorize access to administratively controlled information for performance of assigned scope of work on a case-by-case basis in accordance with AID Handbook 6.

(c) The contractor agrees to submit immediately to the Mission Director or Contracting Officer a complete detailed report marked "Privileged Information", of any information which the contractor may have concerning existing or threatened espionage, sabotage, or subversive activity against the United States of America or the USAID Mission or the cooperating country government.

*5. Workweek (Oct 1987) [For Use in Both CCN and TCN Contracts]*

The contractor's workweek shall not be less than 40 hours, unless otherwise provided in the Schedule, and shall coincide with the workweek for those employees of the Mission or the cooperating country agency most closely associated with the work of this contract. If approved in advance in writing, overtime worked by the contractor shall be paid in accordance with the procedures governing premium compensation applicable to direct-hire foreign service national employees. If the contract is for less than full time (40 hours weekly), the leave earned shall be prorated.

*6. Leave and Holidays (Oct 1987) [For Use in Both CCN and TCN Contracts]*

(a) *Vacation Leave.* The contractor may accrue, accumulate, use and be paid for vacation leave in the same manner as such leave is accrued, accumulated, used and paid to foreign service national direct-hire employees of the Mission. No vacation leave shall be earned if the contract is for less than 90 days. Unused vacation leave may be carried over under an extension or renewal of the contract as long as it conforms to Mission policy and practice. With the approval of the Mission Director, and if the circumstances warrant, a contractor may be granted advance vacation leave in excess of that earned, but in no case shall a contractor be granted advance vacation leave in excess of that which he/she will earn over the life of the contract. The contractor agrees to reimburse AID for leave used in excess of the amount earned during the contractor's assignment under the contract.

(b) *Sick Leave.* The contractor may accrue, accumulate, and use sick leave in the same manner as such leave is accrued, accumulated and used by foreign service national direct-hire employees of the Mission. Unused sick leave may be carried over under an extension of the contract. The contractor will not be paid for sick leave earned but unused at the completion of this contract.

(c) *Leave Without Pay.* Leave without pay may be granted only with the written approval of the Contracting Officer or Mission Director.

(d) *Holidays.* The contractor shall be entitled to all holidays granted by the Mission to direct-hire cooperating country national employees who are on comparable assignments.

*7. Social Security and Cooperating Country Taxes (Dec 1986) [For Use in Both CCN and TCN Contracts]*

Funds for Social Security, retirement, pension, vacation or other cooperating country programs as required by local law shall be deducted and withheld in accordance with laws and regulations and rulings of the cooperating country or any agreement concerning such withholding entered into between the cooperating government and the United States Government.

*8. Insurance (July 1993) [For Use in Both CCN and TCN Contracts]*

(a) *Worker's Compensation Benefits.* The contractor shall be provided worker's compensation benefits under the Federal Employees Compensation Act.

(b) *Health and Life Insurance.* The contractor shall be provided personal health and life insurance benefits on the same basis as they are granted to direct-hire CCNs and TCN employees at the post under the Post Compensation Plan.

(c) *Insurance on Private Automobiles—Contractor Responsibility* [For use in TCN contracts]. If the contractor or dependents transport, or cause to be transported, any privately owned automobile(s) to the cooperating country, or any of them purchase an automobile within the cooperating country, the contractor agrees to ensure that all such automobile(s) during such ownership within the cooperating country will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverages, or such other minimum coverages as may be set by the Mission Director, payable in U.S. dollars or its equivalent in the currency of the cooperating country: injury to persons, \$10,000/\$20,000; property damage, \$5,000. The contractor further agrees to deliver, or cause to be delivered to the Mission Director, copies of the insurance policies required by this clause or satisfactory proof of the existence thereof, before such automobile(s) is operated within the cooperating country. The premium costs for such insurance shall not be a reimbursable cost under this contract.

(d) *Claim for Private Personal Property Losses* [For use in TCN contracts]. The contractor shall be reimbursed for private personal property losses in accordance with AID Handbook 23, "Overseas Support", Chapter 10.

**9. Travel and Transportation Expenses (July 1993)** [For Use in Both CCN and TCN Contracts as appropriate]

(a) *General.* The contract will be reimbursed in currency consistent with the prevailing practice at post and at the rates established by the Mission Director for authorized travel in the cooperating country in connection with duties directly referable to work under this contract. In the absence of such established rates, the contractor shall be reimbursed for actual costs of authorized travel in the cooperating country if not provided by the cooperating government or the Mission in connection with duties directly referable to work hereunder, including travel allowances at rates prescribed by AID Handbook 22, "Foreign Service Travel Regulations", as from time to time amended.

The Executive or Administrative Officer at the Mission may furnish Transportation Requests (TR's) for transportation authorized by this contract which is payable in local currency or is to originate outside the United States. When transportation is not provided by Government issued TR, the contractor shall procure the transportation, and the costs will be reimbursed. The following paragraphs provide specific guidance and limitations on particular items of cost.

(b) *International Travel.* For travel to and from post of assignment, the TCN contractor shall be reimbursed for travel costs and travel allowances from place of residence in the

country of recruitment (or other location provided that the cost of such travel does not exceed the cost of the travel from the place of residence) to the post of duty in the cooperating country and return to place of residence in the country of recruitment (or other location provided that the cost of such travel does not exceed the cost of travel from the post of duty in the cooperating country to the contractor's residence) upon completion of services by the individual. Reimbursement for travel will be in accordance with AID's established policies and procedures for its CCN and TCN direct-hire employees and the provisions of this contract, and will be limited to the cost of travel by the most direct and expeditious route. If the contract is for longer than one year and the contractor does not complete one full year at post of duty (except for reasons beyond his/her control), the costs of going to and from the post of duty for the contractor and his/her dependents are not reimbursable hereunder. If the contractor serves more than one year but less than the required service in the cooperating country (except for reasons beyond his/her control) costs of going to the post of duty are reimbursable hereunder but the costs of going from post of duty to the contractor's permanent, legal place of residence at the time he or she was employed for work under this contract are not reimbursable under this contract for the contractor and his/her dependents. When travel is by economy class accommodations, the contractor will be reimbursed for the cost of transporting up to 10 kilograms/22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers shall not be in excess of the rates authorized in the Standardized Regulations (Government Civilians, Foreign Areas) hereinafter referred to as the Standardized Regulations—as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover en route for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the Federal Travel Regulations as from time to time amended.

(c) *Local Travel.* Reimbursement for local travel in connection with duties directly referable to the contract shall not be in excess

of the rates established by the Mission Director for the travel costs of travelers in the Cooperating Country. In the absence of such established rates the contractor shall be reimbursed for actual travel costs in the Cooperating Government or the Mission, including travel allowances at rates not in excess of those prescribed by the Standardized Regulations.

(d) *Indirect Travel for Personal Convenience of a TCN.* When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of allowable air fare via the direct usually traveled route. If such costs include fares for air or ocean travel by foreign flag carriers, approval for indirect travel by such foreign flag carriers must be obtained from the Contracting Officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by the United States-flag carriers will be reimbursable within the above limitation of allowable costs.

(e) *Limitation on Travel by TCN Dependents.* Travel costs and allowances will be allowed for authorized dependents of the contractor and such costs shall be reimbursed for travel from place of abode in the country of recruitment to the assigned station in the Cooperating Country and return, only if the dependent remains in the Cooperating Country for at least 9 months or one-half of the required tour of duty of the contract, whichever is greater, except as otherwise authorized hereunder for education, medical, or emergency visitation travel.

Dependents of the TCN contractor must return to the country of recruitment or home country within thirty days of the termination or completion of the contractor's employment, otherwise such travel will not be reimbursed under this contract.

(f) *Delays En Route.* The contractor may be granted reasonable delays en route while in travel status when such delays are caused by events beyond the control of the contractor and are not due to circuitous routing. It is understood that if delay is caused by physical incapacitation, he/she shall be eligible for such sick leaves as provided under the "Leave and Holidays" clause of this contract.

(g) *Travel by Privately Owned Automobile (POV).* If travel by POV is authorized in the contract schedule or approved by the Contracting Officer, the contractor shall be reimbursed for the cost of travel performed in his/her POV at a rate not to exceed that authorized in the Federal Travel Regulations plus authorized per diem for the employee and, if the POV is being driven to or from the cooperating country as authorized under the contract, for each of the authorized dependents traveling in the POV, provided that the total cost of the mileage and the per

diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travelers by surface common carrier or authorized air fare, whichever is less.

(h) *Emergency and Irregular Travel and Transportation.* [For TCNs only]. Emergency transportation costs and travel allowances while enroute, as provided in this section, will be reimbursed not to exceed amounts authorized by the Foreign Service Travel Regulations for FSN direct-hire employees in like circumstances under the following conditions:

(1) The costs of going from post of duty in the cooperating country to another approved location for the contractor and authorized dependents and returning to post of duty, subject to the prior written approval of the Mission Director, when such travel is necessary for one of the following reasons:

(i) Need for medical care beyond that available within the area to which contractor is assigned.

(ii) Serious effect on physical or mental health if residence is continued at assigned post of duty.

(iii) Serious illness, injury, or death of a member of the contractor's immediate family or a dependent, including preparation and return of the remains of a deceased contractor or his/her dependents.

(2) Emergency evacuation when ordered by the principal U.S. Diplomatic Officer in the cooperating country. Transportation and travel allowances at safe haven and the transportation of household effects and automobile or storage thereof when authorized by the Mission Director, shall be payable in accordance with established Government regulations.

(3) The Mission Director may also authorize emergency or irregular travel and transportation in other situations when in his/her opinion the circumstances warrant such action. The authorization shall include the kind of leave to be used and appropriate restrictions as to time away from post, transportation of personal and household effects, etc.

(i) *Country of Recruitment Travel and Transportation.* [For TCNs only]. The contractor shall be reimbursed for actual transportation costs and travel allowances in the country of recruitment as authorized in the Schedule or approved in advance by the Contracting Officer or the Mission Director. Transportation costs and travel allowances shall not be reimbursed in any amount greater than the cost of, and time required for, economy-class commercial-scheduled air travel by the most expeditious route except as otherwise provided in paragraph (h) of this clause unless economy air travel is not available and the contractor adequately documents this to satisfaction of the Contracting Officers in documents submitted with the voucher.

(j) *Rest and Recuperation Travel.* [For TCNs only].

If approved in writing by the Mission Director, the contractor and his/her dependents shall be allowed rest and recuperation travel on the same basis as direct-hire TCN employees and their dependents at the post under the local compensation plan.

(k) *Transportation of Personal Effects (Excluding Automobiles and Household Goods).* [For TCNs only].

(l) *General.* Transportation costs will be paid on the same basis as for direct-hire employees at post serving the same length tour of duty, as authorized in the schedule. Transportation, including packing and crating costs, will be paid for shipping from contractor's residence in the country of recruitment or other location, as approved by the Contracting Officer (provided that the cost of transportation does not exceed the cost from the contractor's residence) to post of duty in the cooperating country and return to the country of recruitment or other location provided the cost of transportation of the personal effects of the contractor not to exceed the limitations in effect for such shipments for AID direct-hire employees in accordance with the Foreign Service Travel Regulations in effect at the time shipment is made. These limitations may be obtained from the Contracting Officer.

The cost of transporting household goods shall not exceed the cost of packing, crating, and transportation by surface common carrier.

(2) *Unaccompanied Baggage.* Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival of the contractor and dependents. To permit the arrival of effects to coincide with the arrival of the contractor and dependents, consideration should be given to advance shipments of unaccompanied baggage. The contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance for household effects) not to exceed the limitations in effect for AID direct-hire employees in accordance with the Foreign Service Travel Regulations in effect when shipment is made. These limitations are available from the Contracting Officer. This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used.

(l) *Reduced Rates on U.S.-Flag Carriers.* Reduced rates on U.S.-flag carriers are in effect for shipments of household goods and personal effects of AID contractors between certain locations. These reduced rates are available provided the shipper furnishes to the carrier at the time of the issuance of the Bill of Lading documentary evidence that the shipment is for the account of AID. The Contracting Officer will, on request, furnish to

the contractor current information concerning the availability of a reduced rate with respect to any proposed shipment. The contractor will not be reimbursed for shipments of household goods or personal effects in amounts in excess of the reduced rates which are available in accordance with the foregoing.

(m) *Transportation of things.* [For TCNs Only.] Where U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may obtain a release from the requirement to use U.S. flag vessels from the Transportation Division, Office of Procurement, Agency for International Development, Washington, DC 20523-1419, or the Mission Director, as appropriate, giving the basis for the request.

(n) *Repatriation Travel.* [For TCNs Only.] Notwithstanding other provisions of this Clause 9, a TCN must return to the country of recruitment or to the TCN's home country within 30 days after termination or completion of employment or forfeit all right to reimbursement for repatriation travel. The return travel obligation [repatriation travel] assumed by the U.S. Government may have been the obligation of another employer in the area of assignment if the employee has been in substantially continuous employment which provided for the TCN's return to home country or country from which recruited.

(o) *Storage of household effects.* [For TCNs Only.] The cost of storage charges (including packing, crating, and drayage costs) in the country of recruitment of household goods of regular employees will be permitted in lieu of transportation of all or any part of such goods to the Cooperating Country under paragraph (k) of this clause provided that the total amount of effects shipped to the Cooperating Country or stored in the country of recruitment shall not exceed the amount authorized for AID direct-hire employees under the Foreign Service Travel Regulations. These amounts are available from the Contracting Officer.

#### 10. *Payment (DEC 1992) [For Use in Both CCN and TCN Contracts]*

(a) Payment of compensation shall be based on written documentation supporting time and attendance which may be: (1) Maintained by the Mission in the same way as for direct-hire CCNs and TCNs or (2) the contractor may submit such written documentation in a form acceptable to Mission policy and practice as required for other personal services contractors and as directed by the Mission Controller or paying office. The documentation will also provide information required to be filed under cooperating country laws to permit withholding by AID of funds, if required, as described in the clause of these General Provisions entitled Social Security and Cooperating Country Taxes.

(b) Any other payments due under this contract shall be as prescribed by Mission policy for the type of payment being made.

(c) Interest on Overdue Payments.

(1) The Prompt Payment Act, Public Law 97-177 (96 Stat. 85.31; U.S.C. 1801) is applicable to payments under this contract and requires the payment to the contractor of interest on overdue payments and improperly taken discounts.

(2) Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125 except as provided in paragraph (c)(3) of this clause or as otherwise specifically provided under this contract.

(3) Notwithstanding the provisions of OMB Circular A-125, Section 4.1, the Government will use its best efforts to make payments under this contract as soon as practicable following receipt of a proper invoice.

*11. Contractor-Mission Relationships (Dec. 1986)  
[For Use in Both CCN and TCN Contracts]*

(a) The contractor acknowledges that this contract is an important part of the U.S. Foreign Assistance Program and agrees that his/her duties will be carried out in such a manner as to be fully commensurate with the responsibilities which this entails. Favorable relations between the Mission and the Cooperating Government as well as with the people of the cooperating country require that the contractor shall show respect for the conventions, customs, and institutions of the cooperating country and not become involved in any illegal political activities.

(b) If the contractor's conduct is not in accordance with paragraph (a), the contract may be terminated pursuant to the General Provision of this contract, entitled "Termination." If a TCN, the contractor recognizes the right of the U.S. Ambassador to direct his/her immediate removal from any country when, in the discretion of the Ambassador, the interests of the United States so require.

(c) The Mission Director is the chief representative of AID in the cooperating country. In this capacity, he/she is responsible for the total AID Program in the cooperating country including certain administrative responsibilities set forth in this contract and for advising AID regarding the performance of the work under the contract and its effect on the U.S. Foreign Assistance Program. The contractor will be responsible for performing his/her duties in accordance with the statement of duties called for by the contract. However, he/she shall be under the general policy guidance of the Mission Director and shall keep the Mission Director or his/her designated representative currently informed of the progress of the work under this contract.

*12. Termination (Nov. 1989) [For Use in Both  
CCN and TCN Contracts]*

(This is an approved deviation to be used in place of the clause specified in FAR 52.249-12.)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part:

(1) For cause, which may be effected immediately after establishing the facts warranting the termination, by giving written notice and a statement of reasons to the contractor in the event: (i) The contractor commits a breach or violation of any obligations herein contained, (ii) a fraud was committed in obtaining this contract, or (iii) the contractor is guilty (as determined by AID) of misconduct in the cooperating country. Upon such a termination, the contractor's right to compensation shall cease when the period specified in such notice expires or the last day on which the contractor performs services hereunder, whichever is earlier. No costs of any kind incurred by the contractor after the date such notice is delivered shall be reimbursed hereunder except the cost of return transportation (not including travel allowances), if approved by the Contracting Officer. If any costs relating to the period subsequent to such date have been paid by AID, the contractor shall promptly refund to AID any such prepayment as directed by the Contracting Officer.

(2) For the convenience of AID, by giving not less than 15 calendar days advance written notice to the contractor. Upon such a termination, contractor's right to compensation shall cease when the period specified in such notice expires except that the contractor shall be entitled to any accrued, unused vacation leave, return transportation costs and travel allowances and transportation of unaccompanied baggage costs at the rates specified in the contract and subject to the limitations which apply to authorized travel status.

(3) For the convenience of AID, when the contractor is unable to complete performance of his/her services under the contract by reason of sickness or physical or emotional incapacity based upon a certification of such circumstances by a duly qualified doctor of medicine approved by the Mission. The contract shall be deemed terminated upon delivery to the contractor of a termination notice. Upon such a termination, the contractor shall not be entitled to compensation except to the extent of any accrued, unused vacation leave, but shall be entitled to return transportation, travel allowances, and unaccompanied baggage costs at rates specified in the contract and subject to the limitations which apply to authorized travel status.



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(b) The contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer.

### *13. Allowances (Dec 1986) [For TCNs only]*

Allowances will be granted to the contractor and authorized dependents on the same basis as to direct-hire TCN employees at the post under the Post Compensation Plan. The allowances provided shall be paid to the contractor in the currency of the cooperating country or in accordance with the practice prevailing at the Mission.

### *14. Advance of Dollar Funds (Dec 1986) [For TCNs only]*

If requested by the contractor and authorized in writing by the Contracting Officer, AID will arrange for an advance of funds to defray the initial cost of travel, travel allowances, authorized precontract expenses, and shipment of personal property. The advance shall be granted on the same basis as to an AID U.S.-citizen direct-hire employee in accordance with AID Handbook 22, Chapter 4.

### *15. Conversion of U.S. Dollars to Local Currency (Dec 1986) [For TCNs only]*

Upon arrival in the cooperating country, and from time to time as appropriate, the contractor shall consult with the Mission Director or his/her authorized representative who shall provide, in writing, the policy the contractor shall follow in the conversion of one currency to another currency. This may include, but not be limited to, the conversion of said currency through the cognizant U.S. Disbursing Officer, or Mission Controller, as appropriate.

### *16. Post of Assignment Privileges (Dec 1986) [For TCNs only]*

Privileges such as the use of APO, PX's, commissaries and officer's clubs are established at posts abroad pursuant to agreement between the U.S. and host governments. These facilities are intended for and usually limited to U.S. citizen members of the official U.S. Mission including the Embassy, USAID, Peace Corps, U.S. Information Services and the Military. Normally, the agreements do not permit these facilities to be made available to non-U.S. citizens if they are under contract to the United States Government. However, in those cases where the facilities are open to TCN contractor personnel, they may be used.

### *17. Release of Information (Dec 1986) [For Use in Both CCN and TCN Contracts]*

All rights in data and reports shall become the property of the U.S. Government. All information gathered under this contract by the contractor and all reports and recommendations hereunder shall be treated as

privileged information by the contractor and shall not, without the prior written approval of the Contracting Officer, be made available to any person, party, or government, other than AID, except as otherwise expressly provided in this contract.

### *18. Notices (Dec 1986) [For Use in Both CCN and TCN Contracts]*

Any notice, given by any of the parties hereunder, shall be sufficient only if in writing and delivered in person or sent by telegraph, telegram, registered, or regular mail as follows:

(a) TO AID: To the Mission Director of the Mission in the Cooperating Country with a copy to the appropriate Contracting Officer.

(b) TO the Contractor: At his/her post of duty while in the Cooperating Country and at the contractor's address shown on the Cover Page of this contract or to such other address as either of such parties shall designate by notice given as herein required.

Notices hereunder shall be effective when delivered in accordance with this clause or on the effective date of the notice, whichever is later.

### *19. Incentive Awards (July 1993)*

All Cooperating Country National (CCN) Personal Services Contractors (PSCs) and Third Country Nationals (TCNs) of the Foreign Affairs Community are eligible for the Joint Embassy Incentive Awards Program. The program is administered by each post's (Embassy) Joint Country Awards Committee.

### *20. Training (July 1993)*

The contractor may be provided job related training to develop growth potential, expand capabilities and increase knowledge and skills. The training may be funded under the personal services contract.

### *21. Medical Evacuation (Medevac) Services (July 1993) [For TCN Contracts Only]*

(a) The contractor agrees to obtain medevac service coverage for himself/herself and his/her authorized dependents while performing personal services abroad. Coverage shall be obtained pursuant to the terms of the contract between AID and AID's medevac service provider unless exempted in accordance with paragraph (b).

(b) The following are exempted from the requirements in paragraph (a):

(i) Contractors and their dependents with a health insurance program that includes sufficient medevac coverage as approved by the Contractor Officer.

(ii) Contractors and their dependents located at Missions where the Mission Director makes a written determination to waive the

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requirement for such coverage based on findings that the quality of local medical services or other circumstances obviate the need for such coverage.

(c) Information on the current medevac service provider, including application procedures, is available from the Contracting Officer.

[58 FR 58611, Nov. 2, 1993]

## CHAPTER 8—DEPARTMENT OF VETERANS AFFAIRS

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EDITORIAL NOTE: Nomenclature changes affecting chapter 8 appear at 54 FR 40062, Sept. 29, 1989.

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## SUBCHAPTER A—GENERAL

### PART 801—VETERANS AFFAIRS ACQUISITION REGULATIONS SYSTEM

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AUTHORITY: 38 U.S.C. 501 and 40 U.S.C. 486(c).

SOURCE: 49 FR 12583, Mar. 29, 1984, unless otherwise noted.

EDITORIAL NOTE: A nomenclature change affecting part 801 appears at 52 FR 28559, July 31, 1987.

#### 801.000 Scope of part.

This part prescribes general policies and background regarding the Veterans Affairs Acquisition Regulations (VAAR). It includes information regarding the maintenance and administration of the VAAR and includes procedures for deviations from the VAAR and the Federal Acquisition Regulations (FAR).

[49 FR 12583, Mar. 29, 1984, as amended at 54 FR 31961, Aug. 3, 1989]

#### Subpart 801.1—Purpose, Authority, Issuance

##### 801.101 Purpose.

(a) This subpart establishes Chapter 8, Veterans Affairs Acquisition Regulations, of Title 48—Federal Acquisition Regulation System, Code of Federal Regulations.

(b) The VAAR must be utilized in conjunction with the FAR. The VAAR cannot be utilized by itself.

**801.102 Authority.**

The VAAR and any amendments thereto are issued by the Secretary of Veterans Affairs as provided by 38 U.S.C. 210 and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)).

[49 FR 12583, Mar. 29, 1984, as amended at 54 FR 31961, Aug. 3, 1989]

**801.103 Applicability.**

(a) The FAR and the VAAR apply to all acquisitions of the Department (including construction) made with appropriated funds and procurements made with Supply Fund monies (38 U.S.C. 5021).

(b) The FAR and VAAR will apply to the special procurement programs authorized by Title 38 U.S. Code (Viz., Veterans Canteen Service and the Loan Guaranty programs), to the extent indicated in the VAAR.

[49 FR 12583, Mar. 29, 1984, as amended at 54 FR 40062, Sept. 29, 1989]

**801.103-70 Exclusions.**

The FAR and VAAR will not apply to purchases and contracts which utilize General Post Funds when such regulations would infringe upon a donor's prerogative to specify the exact item to be purchased and/or the source of supply.

**Subpart 801.2—Administration**

**801.201-1 The two councils.**

A designee of the Office of Acquisition and Materiel Management will represent the Department of Veterans Affairs on the CAA (Civilian Agency Acquisition) Council.

[49 FR 12583, Mar. 29, 1984, as amended at 54 FR 31962, Aug. 3, 1989]

**Subpart 801.3—Department Acquisition Regulations**

**801.301 Policy.**

(a) VAAR, amendments and interim changes thereto will be issued by the Secretary of Veterans Affairs after nec-

essary reviews by cognizant VA officials.

(b) Implementing procedures, instructions and guidelines necessary to implement the VAAR and the FAR may be issued by the heads of contracting activities. Such issuances may include delegations of authority, review and approval for acquisition action up to the dollar level delegated to that contracting activity by this regulation as well as providing procedural guidance for users. Such issuances will be the minimum necessary to provide a logical implementation of FAR and VAAR requirements and will be internal to the facility, i.e., it will not specify reporting/recordkeeping requirements for the public (see 801.301-70(b)).

[49 FR 12583, Mar. 29, 1984, as amended at 52 FR 28559, July 31, 1987; 54 FR 31962, Aug. 3, 1989; 61 FR 20491, May 7, 1996]

**801.301-70 Paperwork Reduction Act requirements.**

(a) It is the policy of the Government to keep to the minimum the amount of recordkeeping and reporting required of the public. This objective applies to the Department of Veterans Affairs acquisition system.

(b)(1) Contractors will not be requested to maintain systems of records unless prescribed in FAR or this VAAR. A deviation to this prohibition may be processed in accordance with 801.403 in order to allow the contracting officer to require contractor reporting or recordkeeping beyond that prescribed in FAR and VAAR. The request for deviation will clearly specify what information or recordkeeping will be required and why it is required. The request will be signed by the head of the contracting activity.

(2) The Deputy Assistant Secretary for Acquisition and Materiel Management (93) will review the request and upon concurrence will likewise submit the request to Office of Management and Budget (OMB) for approval as prescribed by the Paperwork Reduction Act of 1980. If approved, the Deputy Assistant Secretary for Acquisition and Materiel Management will send the approval back to the requester with the OMB clearance number.